



Reprinted
January 30, 2008

HOUSE BILL No. 1211

DIGEST OF HB 1211 (Updated January 29, 2008 7:33 pm - DI 101)

Citations Affected: IC 6-1.1; IC 20-24; IC 20-30; IC 24-4.5; IC 24-9; IC 34-30; noncode.

Synopsis: Various home loan matters. Requires the department of local government finance (DLGF) to establish an electronic system for the collection and storage of sales disclosure form data for real estate conveyances. Provides that the system must allow closing agents to input the sales disclosure form data into the system; and (2) submit the form electronically to a data base maintained by the DLGF. Requires the DLGF to make the data base accessible to county auditors, county and township assessors, and the legislative services agency. Requires the DLGF to establish electronic systems that automatically apply: (1) the mortgage deduction to a person entitled to the deduction; and (2) the homestead credit to a person entitled to the credit. Provides that the systems must allow closing agents to: (1) input information about the mortgage transaction that is the basis for the deduction or the credit; and (2) submit the form electronically to data bases maintained by the DLGF. Requires the DLGF to make the data bases accessible to county auditors. Requires a county auditor to accept an electronic filing for the mortgage deduction or the homestead credit if the filing is complete. Prohibits a county auditor from requiring any other information or form of identification for a person to claim the mortgage deduction or the homestead credit. Requires the DLGF to establish an electronic system for the collection and storage of the: (1) names; and (2) license, registration, or certificate numbers; of certain professionals that
(Continued next page)

Effective: Upon passage; July 1, 2008; January 1, 2009.

Murphy, Bardon

January 14, 2008, read first time and referred to Committee on Financial Institutions.
January 24, 2008, reported — Do Pass.
January 29, 2008, read second time, amended, ordered engrossed.

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participate in or assist with residential mortgage transactions. Provides that the system must allow closing agents to: (1) input the required information with respect to each professional involved in the transaction; and (2) submit the form electronically to a data base maintained by the DLGF. Requires the DLGF to make the data base accessible to: (1) the state agencies responsible for regulating the specified professionals; and (2) the homeowner protection unit in the attorney general's office. For residential mortgage transactions that close after June 30, 2008, and before January 1, 2010, requires a closing agent to do the following at the time of closing: (1) In the case of a first lien purchase money mortgage transaction, provide the customer with the sales disclosure form prescribed by the DLGF and the applications for the homestead credit and the mortgage deduction. (2) In the case of a refinancing, provide the customer with the application for the mortgage deduction. (3) Require the customer to complete and sign the form or forms provided. (3) Collect the signed and completed forms for filing. (4) Inform the customer of other specified property tax deductions by providing the customer with a form prescribed by the DLGF that describes the deductions. Requires the closing agent to file the signed forms with the appropriate county auditor. For a residential mortgage transaction that closes after December 31, 2009, requires a closing agent to input and submit the following information to the appropriate data bases maintained by the DLGF, as applicable: (1) Information to enable the customer to obtain the mortgage deduction and the homestead credit. (2) Sales disclosure form data. (4) The names and license, certificate, or registration numbers of specified professionals involved in the transaction. Provides that: (1) purchase money mortgage transactions; and (2) refinancings of first lien mortgage transactions; are subject to regulation under the Uniform Consumer Credit Code (UCCC). Requires settlement service providers to make closing documents available to borrowers at least 48 hours before the closing. Provides that if terms of the home loan set forth in the documents provided differ from the terms presented to the borrower at the time of closing, the borrower is entitled to delay or reschedule the closing without penalty and without forfeiting the right to enter into the loan or the purchase contract. Prohibits a creditor from: (1) recommending or issuing a stated income or no documentation loan to a prospective borrower; or (2) recommending or issuing a home loan to a prospective borrower without first conducting a reasonable inquiry into the prospective borrower's creditworthiness. Provides that if a creditor conducts a reasonable inquiry, the creditor is not liable if the borrower later defaults on a home loan issued by the creditor. Requires creditors to offer: (1) a temporary forbearance, subject to terms agreed upon by the creditor and the borrower; (2) a payment plan; or (3) an option for the refinancing, restructuring, or workout of existing indebtedness; whenever a home loan becomes 60 days past due. Requires various state agencies to form the mortgage lending and fraud prevention task force to coordinate the state's efforts to: (1) regulate the various participants involved in originating, issuing, and closing home loans; (2) enforce state laws and rules concerning mortgage lending practices and mortgage fraud; and (3) prevent fraudulent practices in the home loan industry and investigate and prosecute cases involving mortgage fraud. Requires the securities commissioner and the director of the department of financial institutions to cooperate to determine the appropriate state agency or department to regulate a person subject to regulation, licensure, or registration under both the loan broker statute and the UCCC. Repeals provisions that exclude mortgage transactions from the UCCC. Beginning with the school year that begins in 2010, requires school corporations and accredited nonpublic schools to include in their curricula for grades 9 through 12 instruction designed to: (1) increase students' awareness of consumer transactions, including

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mortgage transactions; and (2) foster personal financial responsibility. Provides that a school corporation or an accredited nonpublic school may provide the instruction by integrating it into its mathematics curriculum. Requires the department of education and the department of financial institutions to develop guidelines to assist teachers assigned to provide the instruction.

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Reprinted
January 30, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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HOUSE BILL No. 1211

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-5.5-3, AS AMENDED BY P.L.219-2007,
2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 3. (a) For purposes of this section, "party"
4 includes:
5 (1) a seller of property that is exempt under the seller's ownership;
6 or
7 (2) a purchaser of property that is exempt under the purchaser's
8 ownership;
9 from property taxes under IC 6-1.1-10.
10 (b) ~~Before~~ **Except as provided in section 3.5 of this chapter, in**
11 **addition to** filing a conveyance document with the county auditor
12 under IC 6-1.1-5-4, all the parties to the conveyance must do the
13 following:
14 (1) Complete and sign a sales disclosure form as prescribed by the
15 department of local government finance under section 5 of this
16 chapter. All the parties may sign one (1) form, or if all the parties
17 do not agree on the information to be included on the completed

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form, each party may sign and file a separate form.

(2) Before filing a sales disclosure form with the county auditor, submit the sales disclosure form to the county assessor. The county assessor must review the accuracy and completeness of each sales disclosure form submitted immediately upon receipt of the form and, if the form is accurate and complete, stamp the form as eligible for filing with the county auditor and return the form to the appropriate party for filing with the county auditor. If multiple forms are filed in a short period, the county assessor shall process the forms as quickly as possible. For purposes of this subdivision, a sales disclosure form is considered to be accurate and complete if:

(A) the county assessor does not have substantial evidence when the form is reviewed under this subdivision that information in the form is inaccurate; and

(B) the form:

(i) substantially conforms to the sales disclosure form prescribed by the department of local government finance under section 5 of this chapter; and

(ii) is submitted to the county assessor in a format usable to the county assessor.

(3) File the sales disclosure form with the county auditor.

(c) Except as provided in subsection (d), the auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance and the legislative services agency in an electronic format specified jointly by the department of local government finance and the legislative services agency. The county assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(d) In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor. The township assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency in an electronic format specified jointly by the department of local government finance and the legislative services agency. The forms may be used by the county assessing officials, the department of

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1 local government finance, and the legislative services agency for the
 2 purposes established in IC 6-1.1-4-13.6, sales ratio studies,
 3 equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6,
 4 and any other authorized purpose.

5 (e) If a sales disclosure form includes the telephone number or
 6 Social Security number of a party, the telephone number or Social
 7 Security number is confidential.

8 (f) County assessing officials and other local officials may not
 9 establish procedures or requirements concerning sales disclosure forms
 10 that substantially differ from the procedures and requirements of this
 11 chapter.

12 SECTION 2. IC 6-1.1-5.5-3.5 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) This section applies to a**
 15 **conveyance that:**

16 (1) is a single family residential:

- 17 (A) first lien purchase money mortgage transaction; or
 18 (B) refinancing transaction; and

19 (2) is closed after December 31, 2009.

20 (b) Not later than September 1, 2009, the department of local
 21 government shall establish and maintain an electronic system for
 22 the collection and storage of the sales disclosure form data set forth
 23 in section 5(a) of this chapter with respect to a conveyance to which
 24 this section applies.

25 (c) The system established by the department under this section
 26 must include a form that:

27 (1) is uniformly accessible in an electronic format to the
 28 closing agent (as defined in IC 6-1.1-12-43(a)(2)) in the
 29 transaction; and

30 (2) allows the closing agent to:

- 31 (A) input the sales disclosure form data set forth in section
 32 5(a) of this chapter with respect to the transaction; and
 33 (B) submit the form electronically to a data base
 34 maintained by the department of local government finance.

35 (d) Subject to subsection (e), the department shall make the
 36 information stored in the data base described in subsection
 37 (c)(2)(B) accessible to:

- 38 (1) county auditors;
 39 (2) county assessors;
 40 (3) township assessors;
 41 (4) the legislative services agency; and
 42 (5) the department;

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for the purposes authorized by section 3(c) and 3(d) of this chapter.

(e) If the sales disclosure form data submitted by a closing agent under subsection (c)(2)(B) includes the telephone number or the Social Security number of a party, the telephone number or the Social Security number is confidential.

SECTION 3. IC 6-1.1-5.5-5, AS AMENDED BY P.L.154-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The department of local government finance shall prescribe a sales disclosure form for use under this chapter. The form prescribed by the department of local government finance must include at least the following information:

- (1) The key number of the parcel (as defined in IC 6-1.1-1-8.5).
- (2) Whether the entire parcel is being conveyed.
- (3) The address of the property.
- (4) The date of the execution of the form.
- (5) The date the property was transferred.
- (6) Whether the transfer includes an interest in land or improvements, or both.
- (7) Whether the transfer includes personal property.
- (8) An estimate of any personal property included in the transfer.
- (9) The name, address, and telephone number of:
 - (A) each transferor and transferee; and
 - (B) the person that prepared the form.
- (10) The mailing address to which the property tax bills or other official correspondence should be sent.
- (11) The ownership interest transferred.
- (12) The classification of the property (as residential, commercial, industrial, agricultural, vacant land, or other).
- (13) The total price actually paid or required to be paid in exchange for the conveyance, whether in terms of money, property, a service, an agreement, or other consideration, but excluding tax payments and payments for legal and other services that are incidental to the conveyance.
- (14) The terms of seller provided financing, such as interest rate, points, type of loan, amount of loan, and amortization period, and whether the borrower is personally liable for repayment of the loan.
- (15) Any family or business relationship existing between the transferor and the transferee.
- (16) Other information as required by the department of local government finance to carry out this chapter.

If a form under this section includes the telephone number or the Social

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Security number of a party, the telephone number or the Social Security number is confidential.

(b) The instructions for completing the form described in subsection (a) must include the information described in ~~IC 6-1.1-12-43(c)(1)~~. **IC 6-1.1-12-43(b)(1).**

SECTION 4. IC 6-1.1-5.5-6, AS AMENDED BY P.L.154-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) **Subject to subsection (c)**, the county auditor may not **refuse to** accept a conveyance document ~~if~~ **solely because:**

(1) the sales disclosure form signed by all the parties and attested as required under section 9 of this chapter is not included with the document; ~~or~~

(2) the sales disclosure form does not contain the information described in section 5(a) of this chapter; **or**

(3) in the case of a conveyance to which section 3.5 of this chapter applies:

(A) the closing agent fails to submit an electronic form in accordance with section 3.5(c)(2)(B) of this chapter; or

(B) the electronic form submitted by the closing agent under section 3.5(c)(2)(B) of this chapter is incomplete or determined by any official or agency described in section 3.5(d) of this chapter to be inaccurate.

(b) **Subject to subsection (c)**, the county recorder ~~shall not~~ **may not refuse to** record a conveyance document ~~without evidence that the parties have filed a completed sales disclosure form with the county auditor;~~ solely on the basis of any of the reasons set forth in subsection (a).

(c) **Notwithstanding subsections (a) and (b), if any of the circumstances described in subsection (a)(1) through (a)(3) apply:**

(1) a party to the conveyance who is required to file a sales disclosure form under section 3 of this chapter:

(A) is not relieved of the party's duty to file or correct the sales disclosure form required by this chapter; and

(B) is subject to the penalties set forth in section 12 of this chapter; and

(2) a closing agent who is required to submit an electronic sales disclosure form under section 3.5(c)(2)(B) of the chapter:

(A) is not relieved of the closing agent's duty to submit or correct the electronic sales disclosure form required by section 3.5(c)(2)(B) this chapter; and

(B) is subject to the penalties set forth in section 12(f) of

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1 **this chapter.**

2 SECTION 5. IC 6-1.1-5.5-9 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. **(a) Except as**
4 **provided in subsection (b)**, a person who signs a sales disclosure form
5 shall attest in writing and under penalties of perjury that to the best of
6 the person's knowledge and belief the information contained in the
7 sales disclosure form is true and correct.

8 **(b) An electronic sales disclosure form that is submitted in**
9 **accordance with section 3.5(c)(2)(B) of this chapter is subject to**
10 **any verification requirements that the department may prescribe**
11 **by rule adopted under IC 4-22-2.**

12 SECTION 6. IC 6-1.1-5.5-12 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) **Except as**
14 **provided in subsection (f)**, a party to a conveyance who:

15 (1) is required to file a sales disclosure form under this chapter;
16 and

17 (2) fails to file a sales disclosure form at the time and in the
18 manner required by this chapter;

19 is subject to a penalty in the amount determined under subsection (b).

20 (b) The amount of the penalty under subsection (a) is the greater of:

21 (1) one hundred dollars (\$100); or

22 (2) twenty-five thousandths percent (0.025%) of the sale price of
23 the real property transferred under the conveyance document.

24 (c) **Except as provided in subsection (f)**, the township assessor in
25 a county containing a consolidated city, or the county assessor in any
26 other county, shall:

27 (1) determine the penalty imposed under this section;

28 (2) assess the penalty to the party to a conveyance; and

29 (3) notify the party to the conveyance that the penalty is payable
30 not later than thirty (30) days after notice of the assessment.

31 (d) **Except as provided in subsection (f)**, the county auditor shall:

32 (1) collect the penalty imposed under this section;

33 (2) deposit penalty collections as required under section 4 of this
34 chapter; and

35 (3) notify the county prosecuting attorney of delinquent payments.

36 (e) **Except as provided in subsection (f)**, the county prosecuting
37 attorney shall initiate an action to recover a delinquent penalty under
38 this section. In a successful action against a person for a delinquent
39 penalty, the court shall award the county prosecuting attorney
40 reasonable attorney's fees.

41 **(f) A closing agent who:**

42 (1) is required to submit an electronic sales disclosure form

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1 under section 3.5(c)(2)(B) of this chapter; and
 2 (2) fails to submit the electronic sales disclosure form at the
 3 time and in the manner prescribed by the department of local
 4 government finance;
 5 is subject to the penalty set forth in IC 6-1.1-12-43(h).

6 SECTION 7. IC 6-1.1-12-2, AS AMENDED BY P.L.183-2007,
 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2008]: Sec. 2. (a) Except as provided in section 17.8 of this
 9 chapter **and subject to subsection (d)**, a person who desires to claim
 10 the deduction provided by section 1 of this chapter must file a
 11 statement in duplicate, on forms prescribed by the department of local
 12 government finance, with the auditor of the county in which the real
 13 property, mobile home not assessed as real property, or manufactured
 14 home not assessed as real property is located. With respect to real
 15 property, the statement must be filed during the twelve (12) months
 16 before June 11 of each year for which the person wishes to obtain the
 17 deduction. With respect to a mobile home that is not assessed as real
 18 property or a manufactured home that is not assessed as real property,
 19 the statement must be filed during the twelve (12) months before
 20 March 31 of each year for which the individual wishes to obtain the
 21 deduction. The statement may be filed in person or by mail. If mailed,
 22 the mailing must be postmarked on or before the last day for filing. In
 23 addition to the statement required by this subsection, a contract buyer
 24 who desires to claim the deduction must submit a copy of the recorded
 25 contract or recorded memorandum of the contract, which must contain
 26 a legal description sufficient to meet the requirements of IC 6-1.1-5,
 27 with the first statement that the buyer files under this section with
 28 respect to a particular parcel of real property. Upon receipt of the
 29 statement and the recorded contract or recorded memorandum of the
 30 contract, the county auditor shall assign a separate description and
 31 identification number to the parcel of real property being sold under the
 32 contract.

33 (b) The statement referred to in subsection (a) must be verified
 34 under penalties for perjury, and the statement must contain the
 35 following information:

- 36 (1) The balance of the person's mortgage or contract indebtedness
 37 on the assessment date of the year for which the deduction is
 38 claimed.
 39 (2) The assessed value of the real property, mobile home, or
 40 manufactured home.
 41 (3) The full name and complete residence address of the person
 42 and of the mortgagee or contract seller.

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(4) The name and residence of any assignee or bona fide owner or holder of the mortgage or contract, if known, and if not known, the person shall state that fact.

(5) The record number and page where the mortgage, contract, or memorandum of the contract is recorded.

(6) A brief description of the real property, mobile home, or manufactured home which is encumbered by the mortgage or sold under the contract.

(7) If the person is not the sole legal or equitable owner of the real property, mobile home, or manufactured home, the exact share of the person's interest in it.

(8) The name of any other county in which the person has applied for a deduction under this section and the amount of deduction claimed in that application.

(c) **Except as provided in subsection (d)**, the authority for signing a deduction application filed under this section may not be delegated by the real property, mobile home, or manufactured home owner or contract buyer to any person except upon an executed power of attorney. The power of attorney may be contained in the recorded mortgage, contract, or memorandum of the contract, or in a separate instrument.

(d) As used in this subsection, "transaction" has the meaning set forth in section 43(a)(4) of this chapter. Not later than September 1, 2009, the department of local government finance shall establish and maintain an electronic system that automatically applies the deduction provided by section 1 of this chapter to a person entitled to the deduction provided by section 1 of this chapter. The system established by the department under this subsection must include a form that, with respect to a transaction that is closed after December 31, 2009:

(1) is uniformly accessible in an electronic format to the closing agent (as defined in section 43(a)(2) of this chapter) in the transaction that is the basis for the person's eligibility for the deduction provided by section 1 of this chapter; and

(2) allows the closing agent to:

(A) input the information concerning the transaction that is the basis for the person's eligibility for the deduction provided by section 1 of this chapter; and

(B) submit the form electronically to a data base maintained by the department of local government finance.

The department shall make the data base described in subdivision (2)(B) accessible to the county auditor in each county in Indiana.

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If the form submitted by a closing agent under subdivision (2)(B) is complete, the county auditor in the county in which the real property is located must accept the form and apply the deduction in accordance with section 17.8(c) of this chapter. The county auditor may not require the closing agent, the person entitled to the deduction, or any other person to provide any other information or form of identification for the person entitled to the deduction under section 1 of chapter to receive the deduction. If the form submitted by a closing agent under subdivision (2)(B) includes the telephone number or Social Security number of any individual, the telephone number or Social Security number is confidential.

SECTION 8. IC 6-1.1-12-42.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42.5. (a) This section applies to a transaction that:

(1) is a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction; and

(2) is closed after December 31, 2009.

(b) Not later than September 1, 2009, the department of local government finance shall establish and maintain an electronic system for the collection and storage of the following information concerning any of the following persons that have participated in or assisted with a transaction to which this section applies, or that will participate in or assist with a transaction to which this section applies:

(1) The name and license number (under IC 23-2-5) of each loan brokerage business involved in the transaction.

(2) The name and registration number (under IC 23-2-5) of each originator involved in the transaction.

(3) The name and license number (under IC 25-34.1) of each:

(A) principal broker; and

(B) salesperson or broker-salesperson, if any; involved in the transaction.

(4) The name and certificate number (under IC 27-7-3) of each title insurance company involved in the transaction.

(5) The name and license number (under IC 27-1-15.6) of each title insurance agent involved in the transaction.

(6) The name and:

(A) license or certificate number (under IC 25-34.1-3-8) of each licensed or certified real estate appraiser; or

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(B) license number (under IC 25-34.1) of each broker;
who appraises the property that is the subject of the
transaction.

(7) The name of the mortgagee and, if the mortgagee is
required to be licensed under IC 24-4.5-3-502, the license
number of the mortgagee.

(c) The system established by the department under this section
must include a form that:

(1) is uniformly accessible in an electronic format to the
closing agent (as defined in section 43(a)(2) of this chapter) in
the transaction; and

(2) allows the closing agent to:

(A) input the information described in subsection (b) with
respect to each person described in subsection (b) that
participates in or assists with the transaction, to the extent
determinable; and

(B) submit the form electronically to a data base
maintained by the department of local government finance.

(d) Subject to subsection (e), the department shall make the
information stored in the data base described in subsection
(c)(2)(B) accessible to:

(1) each entity described in IC 4-6-12-4; and

(2) the homeowner protection unit established under
IC 4-6-12-2.

(e) The department, a closing agent who submits under
subsection (c), each entity described in IC 4-6-12-4, and the
homeowner protection unit established under IC 4-6-12-2 shall
exercise all necessary caution to avoid disclosure of any
information:

(1) concerning a person described in subsection (b), including
the person's license, registration, or certificate number; and

(2) contained in the data base described in subsection
(c)(2)(B);

except to the extent required or authorized by state or federal law.

SECTION 9. IC 6-1.1-12-43 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 43. (a) For purposes of
this section:

(1) "benefit" refers to:

(A) a deduction under section 1, 9, 11, 13, 14, 16, 17.4, 26, 29,
31, 33, or 34 of this chapter; or

(B) the homestead credit under IC 6-1.1-20.9-2.

(2) "closing agent" means a person that closes a transaction;

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(3) "customer" means an individual who obtains a loan in a transaction; and

(4) "transaction" means a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction.

~~(b) Before closing a transaction after December 31, 2004, a closing agent must provide to the customer the form referred to in subsection (c).~~

~~(c) Before June 1, 2004, (b)~~ The department of local government finance shall prescribe ~~the a~~ form to be provided by closing agents to customers under subsection ~~(b) (d)~~(1). The department shall make the form available to closing agents, county assessors, county auditors, and county treasurers in hard copy and electronic form. County assessors, county auditors, and county treasurers shall make the form available to the general public. The form must:

(1) on one (1) side:

(A) list each benefit;

(B) list the eligibility criteria for each benefit; and

(C) indicate that a new application for a deduction under section 1 of this chapter is required when residential real property is refinanced;

(2) on the other side indicate:

(A) each action by; and

(B) each type of documentation from;

the customer required to file for each benefit; and

(3) be printed in one (1) of two (2) or more colors prescribed by the department of local government finance that distinguish the form from other documents typically used in a closing. ~~referred to in subsection (b).~~

~~(d) (c)~~ A closing agent:

(1) may reproduce the form referred to in subsection ~~(c); (b);~~

(2) in reproducing the form, must use a print color prescribed by the department of local government finance; and

(3) is not responsible for the content of the form referred to in subsection ~~(c) (b)~~ and shall be held harmless by the department of local government finance from any liability for the content of the form.

(d) A closing agent must do the following with respect to a transaction that is closed after June 30, 2008, and before January 1, 2010:

(1) At the time of closing:

(A) provide the customer with:

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(i) if the transaction is a first lien purchase money mortgage transaction, the sales disclosure form prescribed by the department under IC 6-1.1-5.5-5, the form prescribed by the department under IC 6-1.1-20.9-3 to allow a person to claim the credit provided by IC 6-1.1-20.9-2, and the form prescribed by the department under section 2(a) of this chapter to allow a person to claim the deduction provided by section 1 of this chapter; or

(ii) if the transaction is a refinancing transaction, the form prescribed by the department under section 2(a) of this chapter to allow a person to claim the deduction provided by section 1 of this chapter.

(B) require the customer to complete and sign the forms provided under clause (A); and

(C) collect the forms signed and completed under clause (B) for filing under subsection (e).

(2) At the time of the closing, inform the customer of the deductions available under sections 9, 11, 13, 14, 16, 17.4, 26, 29, 31, 33, and 34 of this chapter by providing the customer with the form prescribed by the department under subsection (b).

(e) This subsection applies to a transaction that is closed after June 30, 2008, and before January 1, 2010. The closing agent shall file the forms completed and signed by the customer under subsection (d)(1)(B) as follows:

(1) In the case of a first lien purchase money mortgage transaction, the closing agent shall file:

(A) the signed sales disclosure form with the appropriate county assessor and county auditor in accordance with IC 6-1.1-5-3;

(B) the signed mortgage deduction form in accordance with section 2(a) of the chapter; and

(C) the signed homestead credit form in accordance with IC 6-1.1-20.9-3.

(2) In the case of a refinancing transaction, the closing agent shall file the signed mortgage deduction form in accordance with section 2(a) of this chapter.

(f) This subsection applies to a transaction that is closed after December 31, 2009. The closing agent shall do the following:

(1) At the time of the closing, inform the customer of the deductions available under sections 9, 11, 13, 14, 16, 17.4, 26,

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29, 31, 33, and 34 of this chapter by providing the customer with the form prescribed by the department under subsection (b).

(2) As soon as possible after the closing, and within the time prescribed by the department of local government finance:

(A) for a transaction that is a first lien purchase money mortgage transaction:

(i) input the electronic sales disclosure form data and submit the electronic sales disclosure form in accordance with IC 6-1.1-5.5-3.5(c)(2);

(ii) input the information and submit the form described in IC 6-1.1-20.9-3(d)(2) to enable the customer to receive the credit provided by IC 6-1.1-20.9-2;

(iii) input the information and submit the form described in section 2(d)(2) of this chapter to enable the customer to receive the deduction provided by section (1) of this chapter; and

(iv) input the information and submit the form described in IC 6-1.1-12-42.5(c)(2); and

(B) for a refinancing transaction:

(i) input the information and submit the form described in section 2(d)(2) of this chapter to enable the customer to receive the deduction provided by section (1) of this chapter; and

(ii) input the information and submit the form described in IC 6-1.1-12-42.5(c)(2), to the extent applicable.

~~(e)~~ (g) A closing agent to which this section applies shall document its the closing agent's compliance with this section with respect to each transaction in the form of verification of compliance signed by the customer.

~~(f)~~ (h) A closing agent is subject to a civil penalty of twenty-five dollars (\$25) for each instance in which the closing agent fails to comply with this section with respect to a customer. The penalty:

(1) may be enforced by the state agency that has administrative jurisdiction over the closing agent in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and

(2) shall be paid into the property tax replacement fund.

(i) A closing agent is not liable for any other damages claimed by a customer because of:

(1) the closing agent's mere failure to provide the an appropriate document to the customer under this section;

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(2) with respect to a transaction that is closed after June 30, 2008, and before January 1, 2010, the closing agent's failure to file a document under subsection (e);

(3) with respect to a transaction that is closed after December 31, 2009, the closing agent's failure to input any information or submit any form described in subsection (f)(2); or

(4) any determination made with respect to a customer's eligibility for a benefit.

~~(g)~~ (j) The state agency that has administrative jurisdiction over a closing agent shall:

(1) examine the closing agent to determine compliance with this section; and

(2) impose and collect penalties under subsection ~~(f)~~: (h).

SECTION 10. IC 6-1.1-20.9-3, AS AMENDED BY P.L.183-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) **Subject to subsection (e)**, an individual who desires to claim the credit provided by section 2 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is located. The statement shall include the parcel number or key number of the real estate and the name of the city, town, or township in which the real estate is located. With respect to real property, the statement must be filed during the twelve (12) months before June 11 of the year prior to the first year for which the person wishes to obtain the credit for the homestead. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of the first year for which the individual wishes to obtain the credit. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the credit is allowed.

(b) The certified statement referred to in subsection (a) shall contain the name of any other county and township in which the individual owns or is buying real property.

(c) If an individual who is receiving the credit provided by this chapter changes the use of the individual's real property, so that part or all of that real property no longer qualifies for the homestead credit provided by this chapter, the individual must file a certified statement with the auditor of the county, notifying the auditor of the change of use within sixty (60) days after the date of that change. An individual who changes the use of the individual's real property and fails to file

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the statement required by this subsection is liable for the amount of the credit the individual was allowed under this chapter for that real property.

(d) An individual who receives the credit provided by section 2 of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the credit in the following year is not required to file a statement to reapply for the credit following the removal of the joint owner if:

(1) the individual is the sole owner of the property following the death of the individual's spouse;

(2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or

(3) the individual is awarded sole ownership of property in a divorce decree.

(e) As used in this subsection, "transaction" has the meaning set forth in section 43(a)(4)(A) of this chapter. Not later than September 1, 2009, the department of local government finance shall establish and maintain an electronic system that automatically applies the credit provided by section 2 of this chapter to a person entitled to the credit provided by section 2 of this chapter. The system established by the department under this subsection must include a form that, with respect to a transaction that is closed after December 31, 2009:

(1) is uniformly accessible in an electronic format to the closing agent (as defined in section 43(a)(2) of this chapter) in the transaction that is the basis for the person's eligibility for the credit provided by section 2 of this chapter; and

(2) allows the closing agent to:

(A) input the information concerning the transaction that is the basis for the person's eligibility for the credit provided by section 2 of this chapter; and

(B) submit the form electronically to a data base maintained by the department of local government finance.

The department shall make the data base described in subdivision (2)(B) accessible to the county auditor in each county in Indiana. If the form submitted by a closing agent under subdivision (2)(B) is complete, the county auditor in the county in which the real property is located must accept the form and apply the credit in accordance with section 2(f) of this chapter. The county auditor may not require the closing agent, the person entitled to the credit, or any other person to provide any other information or form of identification for the person entitled to the credit under section 2

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1 of chapter to receive the credit. If the form submitted by a closing
 2 agent under subdivision (2)(B) includes the telephone number or
 3 Social Security number of any individual, the telephone number or
 4 Social Security number is confidential.

5 SECTION 11. IC 20-24-8-5, AS AMENDED BY P.L.2-2006,
 6 SECTION 111, IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2008]: Sec. 5. The following statutes and rules
 8 and guidelines adopted under the following statutes apply to a charter
 9 school:

- 10 (1) IC 5-11-1-9 (required audits by the state board of accounts).
- 11 (2) IC 20-39-1-1 (unified accounting system).
- 12 (3) IC 20-35 (special education).
- 13 (4) IC 20-26-5-10 and IC 20-28-5-9 (criminal history).
- 14 (5) IC 20-26-5-6 (subject to laws requiring regulation by state
- 15 agencies).
- 16 (6) IC 20-28-7-14 (void teacher contract when two (2) contracts
- 17 are signed).
- 18 (7) IC 20-28-10-12 (nondiscrimination for teacher marital status).
- 19 (8) IC 20-28-10-14 (teacher freedom of association).
- 20 (9) IC 20-28-10-17 (school counselor immunity).
- 21 (10) For conversion charter schools only, IC 20-28-6, IC 20-28-7,
- 22 IC 20-28-8, IC 20-28-9, and IC 20-28-10.
- 23 (11) IC 20-33-2 (compulsory school attendance).
- 24 (12) IC 20-33-3 (limitations on employment of children).
- 25 (13) IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student
- 26 due process and judicial review).
- 27 (14) IC 20-33-8-16 (firearms and deadly weapons).
- 28 (15) IC 20-34-3 (health and safety measures).
- 29 (16) IC 20-33-9 (reporting of student violations of law).
- 30 (17) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative
- 31 observances).
- 32 (18) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, IC 20-32-8,
- 33 or any other statute, rule, or guideline related to standardized
- 34 testing (assessment programs, including remediation under the
- 35 assessment programs).
- 36 (19) IC 20-33-7 (parental access to education records).
- 37 (20) IC 20-31 (accountability for school performance and
- 38 improvement).
- 39 (21) Beginning with the school year that begins in the
- 40 calendar year beginning January 1, 2010, IC 20-30-5-19
- 41 (instruction concerning consumer transactions and personal
- 42 financial responsibility).

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SECTION 12. IC 20-30-5-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 19. (a) Beginning with the school year that begins in the calendar year beginning January 1, 2010, each school corporation (including each charter school) and each nonpublic school that voluntarily has become accredited under IC 20-19-2-8 shall include in its curriculum for all students in grades 9 through 12 instruction designed to:**

- (1) increase students' awareness of certain consumer transactions, including mortgage transactions; and**
- (2) foster personal financial responsibility.**

(b) A school corporation (including a charter school) and a nonpublic school that voluntarily has become accredited under IC 20-19-2-8 may meet the requirements of subsection (a) by:

- (1) integrating the instruction described in subsection (a) in its required mathematics curriculum; or**
- (2) conducting a separate class or seminar that includes the instruction described in subsection (a).**

(c) A person may not receive a high school diploma from a school subject to this section unless the person has received the instruction required by this section.

(d) The department, in collaboration with the department of financial institutions established by IC 28-11-1-1, shall develop guidelines and the state board shall adopt rules under IC 4-22-2 to assist teachers assigned to provide the instruction required by this section.

SECTION 13. IC 24-4.5-1-301, AS AMENDED BY P.L.57-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 301. General Definitions – In addition to definitions appearing in subsequent chapters in this article:**

(1) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

(2) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products; "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(3) "Average daily balance" means the sum of each of the daily

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balances in a billing cycle divided by the number of days in the billing cycle, and if the billing cycle is a month, the creditor may elect to treat the number of days in each billing cycle as thirty (30).

(4) "Closing costs" with respect to a debt secured by an interest in land includes:

- (a) fees or premiums for title examination, title insurance, or similar purposes, including surveys;
- (b) fees for preparation of a deed, settlement statement, or other documents;
- (c) escrows for future payments of taxes and insurance;
- (d) fees for notarizing deeds and other documents;
- (e) appraisal fees; and
- (f) credit reports.

(5) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it.

(6) "Consumer credit" means credit offered or extended to a consumer primarily for a personal, family, or household purpose.

(7) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(8) "Creditor" means a person:

- (a) who regularly engages in the extension of consumer credit that is subject to a credit service charge or loan finance charge, as applicable, or is payable **by written agreement in more than four (4) installments (not including a down payment);** and
- (b) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is not a note or contract.

(9) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program.

(10) "Lender credit card or similar arrangement" means an arrangement or loan agreement, other than a seller credit card, pursuant to which a lender gives a debtor the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises:

- (a) by the lender's honoring a draft or similar order for the payment of money drawn or accepted by the debtor;
- (b) by the lender's payment or agreement to pay the debtor's obligations; or
- (c) by the lender's purchase from the obligee of the debtor's

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- 1 obligations.
- 2 (11) "Official fees" means:
- 3 (a) fees and charges prescribed by law which actually are or will
- 4 be paid to public officials for determining the existence of or for
- 5 perfecting, releasing, or satisfying a security interest related to a
- 6 consumer credit sale, consumer lease, or consumer loan; or
- 7 (b) premiums payable for insurance in lieu of perfecting a security
- 8 interest otherwise required by the creditor in connection with the
- 9 sale, lease, or loan, if the premium does not exceed the fees and
- 10 charges described in paragraph (a) which would otherwise be
- 11 payable.
- 12 (12) "Organization" means a corporation, a government or
- 13 governmental subdivision, or an agency, a trust, an estate, a
- 14 partnership, a limited liability company, a cooperative, or an
- 15 association.
- 16 (13) "Payable in installments" means that payment is required or
- 17 permitted by written agreement to be made in more than four (4)
- 18 installments not including a down payment.
- 19 (14) "Person" includes a natural person or an individual and an
- 20 organization.
- 21 (15) "Person related to" with respect to an individual means:
- 22 (a) the spouse of the individual;
- 23 (b) a brother, brother-in-law, sister, sister-in-law of the individual;
- 24 (c) an ancestor or lineal descendants of the individual or the
- 25 individual's spouse; and
- 26 (d) any other relative, by blood or marriage, of the individual or
- 27 the individual's spouse who shares the same home with the
- 28 individual.
- 29 "Person related to" with respect to an organization means:
- 30 (a) a person directly or indirectly controlling, controlled by, or
- 31 under common control with the organization;
- 32 (b) an officer or director of the organization or a person
- 33 performing similar functions with respect to the organization or
- 34 to a person related to the organization;
- 35 (c) the spouse of a person related to the organization; and
- 36 (d) a relative by blood or marriage of a person related to the
- 37 organization who shares the same home with the person.
- 38 (16) "Presumed" or "presumption" means that the trier of fact must
- 39 find the existence of the fact presumed unless and until evidence is
- 40 introduced which would support a finding of its nonexistence.
- 41 (17) "Mortgage transaction" means a ~~transaction~~ **consumer credit**
- 42 **sale or consumer loan** in which a ~~first~~ mortgage, **deed of trust**, or a

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land contract which constitutes a ~~first~~ lien is created or retained against land **upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes.**

(18) "Regularly engaged" means a person who extends consumer credit more than:

(a) twenty-five (25) times; or

(b) five (5) times for transactions secured by a dwelling; in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

(19) "Seller credit card" means an arrangement which gives to a buyer or lessee the privilege of using a credit card, letter of credit, or other credit confirmation or identification for the purpose of purchasing or leasing goods or services from that person, a person related to that person, or from that person and any other person. The term includes a card that is issued by a person, that is in the name of the seller, and that can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

(20) "Supervised financial organization" means a person, other than an insurance company or other organization primarily engaged in an insurance business:

(a) organized, chartered, or holding an authorization certificate under the laws of a state or of the United States which authorizes the person to make loans and to receive deposits, including a savings, share, certificate, or deposit account; and

(b) subject to supervision by an official or agency of a state or of the United States.

(21) "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage.

(22) "Affiliate", with respect to any person subject to this article, means a person that, directly or indirectly, through one (1) or more intermediaries:

(a) controls;

(b) is controlled by; or

(c) is under common control with; the person subject to this article.

(23) "Dwelling" means a residential structure that contains one (1) to four (4) units, regardless of whether the structure is attached to real property. The term includes an individual:

(a) condominium unit;

(b) cooperative unit;

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1 (c) mobile home; or
 2 (d) trailer;
 3 **that is used as a residence.**

4 SECTION 14. IC 24-4.5-2-104 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 104. (1) Except
 6 as provided in subsection (2), "consumer credit sale" is a sale of goods,
 7 services, or an interest in land in which:

8 (a) credit is granted by a person who regularly engages as a seller
 9 in credit transactions of the same kind;

10 (b) the buyer is a person other than an organization;

11 (c) the goods, services, or interest in land are purchased primarily
 12 for a personal, family, or household purpose;

13 (d) either the debt is payable in installments or a credit service
 14 charge is made; and

15 (e) with respect to a sale of goods or services, either:

16 (i) the amount financed does not exceed fifty thousand dollars
 17 (\$50,000); or

18 (ii) the debt is secured by **a mortgage transaction or by**
 19 personal property used or expected to be used as ~~the principal~~
 20 a dwelling of the buyer.

21 (2) Unless the sale is made subject to this article by agreement
 22 (IC 24-4.5-2-601), "consumer credit sale" does not include ~~(a)~~ a sale in
 23 which the seller allows the buyer to purchase goods or services
 24 pursuant to a lender credit card or similar arrangement. ~~or (b) except~~
 25 as provided with respect to disclosure (IC 24-4.5-2-301); debtors'
 26 remedies (IC 24-4.5-5-201); providing payoff amounts
 27 (IC 24-4.5-2-209); and powers and functions of the department
 28 (IC 24-4.5-6-101); a sale of an interest in land which is a mortgage
 29 transaction (as defined in IC 24-4.5-1-301(17)).

30 SECTION 15. IC 24-4.5-2-105 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 105. Definitions:
 32 "Goods"; "Merchandise Certificate"; "Services"; "Sale of Goods"; "Sale
 33 of Services"; "Sale of an Interest in Land"; "Precomputed".

34 (1) "Goods" includes goods not in existence at the time the
 35 transaction is entered into and merchandise certificates, but excludes
 36 money, chattel paper, documents of title, and instruments.

37 (2) "Merchandise certificate" means a writing issued by a seller not
 38 redeemable in cash and usable in its face amount in lieu of cash in
 39 exchange for goods or services.

40 (3) "Services" includes (a) work, labor, and other personal services,
 41 (b) privileges with respect to transportation, hotel and restaurant
 42 accommodations, education, entertainment, recreation, physical

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1 culture, hospital accommodations, funerals, cemetery accommodations,
2 and the like, and (c) insurance provided by a person other than the
3 insurer.

4 (4) "Sale of goods" includes any agreement in the form of a bailment
5 or lease of goods if the bailee or lessee agrees to pay as compensation
6 for use a sum substantially equivalent to or in excess of the aggregate
7 value of the goods involved and it is agreed that the bailee or lessee
8 will become, or for no other or a nominal consideration has the option
9 to become, the owner of the goods upon full compliance with ~~his~~ **the**
10 **bailee's or lessee's** obligations under the agreement.

11 (5) "Sale of services" means furnishing or agreeing to furnish
12 services and includes making arrangements to have services furnished
13 by another.

14 (6) "Sale of an interest in land" includes **a mortgage transaction or**
15 a lease in which the **mortgagor or the** lessee has an option to purchase
16 the interest and all or a substantial part of the rental or other payments
17 previously made by ~~him~~ **the mortgagor or the lessee** are applied to the
18 purchase price.

19 (7) A sale, refinancing, or consolidation is "precomputed" if the debt
20 is expressed as a sum comprising the amount financed and the amount
21 of the credit service charge computed in advance.

22 SECTION 16. IC 24-4.5-2-107 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 107. Definition;
24 "Seller" - Except as otherwise provided, "seller" **means a person**
25 **regularly engaged as a creditor in making consumer credit sales.**
26 **The term** includes an assignee of the seller's right to payment but use
27 of the term does not in itself impose on an assignee any obligation of
28 the seller with respect to events occurring before the assignment.

29 SECTION 17. IC 24-4.5-2-201, AS AMENDED BY P.L.57-2006,
30 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JANUARY 1, 2009]: Sec. 201. Credit Service Charge for Consumer
32 Credit Sales other than Revolving Charge Accounts — (1) With respect
33 to a consumer credit sale, other than a sale pursuant to a revolving
34 charge account, a seller may contract for and receive a credit service
35 charge not exceeding that permitted by this section.

36 (2) The credit service charge, calculated according to the actuarial
37 method, may not exceed the equivalent of the greater of either of the
38 following:

39 (a) the total of:

40 (i) thirty-six percent (36%) per year on that part of the unpaid
41 balances of the amount financed which is three hundred
42 dollars (\$300) or less;

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(ii) twenty-one percent (21%) per year on that part of the unpaid balances of the amount financed which is more than three hundred dollars (\$300) but does not exceed one thousand dollars (\$1,000); and

(iii) fifteen percent (15%) per year on that part of the unpaid balances of the amount financed which is more than one thousand dollars (\$1,000); or

(b) twenty-one percent (21%) per year on the unpaid balances of the amount financed.

(3) This section does not limit or restrict the manner of contracting for the credit service charge, whether by way of add-on, discount, or otherwise, so long as the rate of the credit service charge does not exceed that permitted by this section. If the sale is precomputed:

(a) the credit service charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment (IC 24-4.5-2-210).

(4) For the purposes of this section, the term of a sale agreement commences with the date the credit is granted or, if goods are delivered or services performed more than thirty (30) days after that date, with the date of commencement of delivery or performance except as set forth below:

(a) Delays attributable to the customer. Where the customer requests delivery after the thirty (30) day period or where delivery occurs after the thirty (30) day period for a reason attributable to the customer (including but not limited to failure to close on a residence or failure to obtain lease approval), the term of the sale agreement shall commence with the date credit is granted.

(b) Partial Deliveries. Where any portion of the order has been delivered within the thirty (30) day period, the term of the sale agreement shall commence with the date credit is granted.

Differences in the lengths of months are disregarded and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the seller may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(5) Subject to classifications and differentiations the seller may reasonably establish, the seller may make the same credit service charge on all amounts financed within a specified range. A credit service charge so made does not violate subsection (2) if:

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(a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (2); and
 (b) when applied to the lowest amount within each range, it does not produce a rate of credit service charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) Notwithstanding subsection (2), the seller may contract for and receive a minimum credit service charge of not more than thirty dollars (\$30). The minimum credit service charge allowed under this subsection may be imposed only if:

(a) the ~~borrower~~ **debtor** prepays in full a consumer credit sale, refinancing, or consolidation, regardless of whether the sale, refinancing, or consolidation is precomputed;

(b) the sale, refinancing, or consolidation prepaid by the ~~borrower~~ **debtor** is subject to a credit service charge that:

(i) is contracted for by the parties; and

(ii) does not exceed the rate prescribed in subsection (2); and

(c) the credit service charge earned at the time of prepayment is less than the minimum credit service charge contracted for under this subsection.

(7) The amounts of three hundred dollars (\$300) and one thousand dollars (\$1,000) in subsection (2) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106).

(8) The amount of thirty dollars (\$30) in subsection (6) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 1992.

SECTION 18. IC 24-4.5-2-203.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 203.5. Delinquency Charges – (1) With respect to a consumer credit sale, refinancing, or consolidation, **other than a first lien mortgage transaction**, the parties may contract for a delinquency charge of not more than five dollars (\$5) on any installment or minimum payment due not paid in full within ten (10) days after its scheduled due date. **For a first lien mortgage transaction, the parties may contract for a delinquency charge of not more than five percent (5%) of the contracted payment amount.**

(2) A delinquency charge under this section may be collected only once on an installment however long it remains in default. A delinquency charge on consumer credit sales made under a revolving charge account may be applied each month that the payment is less

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than the minimum required payment. A delinquency charge may be collected any time after it accrues. No delinquency charge may be collected if the installment has been deferred and a deferral charge (IC 24-4.5-2-204) has been paid or incurred.

(3) **Except for a first lien mortgage transaction**, a delinquency charge may not be collected on an installment or payment due that is paid in full within ten (10) days after its scheduled due date even though an earlier maturing installment, minimum payment, or a delinquency charge on:

(a) an earlier installment; or

(b) payment due;

may not have been paid in full. For purposes of this subsection, payments are applied first to current installments or payments due and then to delinquent installments or payments due.

(4) If two (2) installments or parts of two (2) installments of a precomputed consumer credit sale are in default for ten (10) days or more, the creditor may elect to convert the consumer credit sale from a precomputed consumer credit sale to a consumer credit sale in which the credit service charge is based on unpaid balances. A creditor that makes this election shall make a rebate under the provisions on rebates upon prepayment under IC 24-4.5-2-210 as of the maturity date of the first delinquent installment, and thereafter may make a credit service charge as authorized by the provisions on credit service charges for consumer credit sales under IC 24-4.5-2-201. The amount of the rebate shall not be reduced by the amount of any permitted minimum charge under IC 24-4.5-2-210. Any deferral charges made on installments due at or after the maturity date of the first delinquent installment shall be rebated, and no further deferral charges shall be made.

(5) The amount of five dollars (\$5) in subsection (1) is subject to change under the section on adjustment of dollar amounts (IC 24-4.5-1-106).

(6) If the parties provide by contract for a delinquency charge that is subject to change, the seller shall disclose in the contract that the amount of the delinquency charge is subject to change as allowed by IC 24-4.5-1-106.

SECTION 19. IC 24-4.5-3-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 103. Definitions in Chapter – The following definitions apply to this Article:

"Consumer loan" Section 3-104

"Consumer related loan" Section 3-602 (1)

"Lender" Section 3-107 (1)

"Loan" Section 3-106

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"Loan finance charge" Section 3-109

~~"Loan primarily secured by an~~

~~interest in land"~~ ~~Section 3-105~~

"Precomputed" Section 3-107 (2)

"Principal" Section 3-107 (3)

"Revolving loan account" Section 3-108

"Supervised lender" Section 3-501 (2)

"Supervised loan" 3-501 (1)

SECTION 20. IC 24-4.5-3-104 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 104. ~~Except with respect to a loan primarily secured by an interest in land (IC 24-4.5-3-105), "consumer "~~**Consumer** loan" is a loan made by a person regularly engaged in the business of making loans in which:

- (a) the debtor is a person other than an organization;
- (b) the debt is primarily for a personal, family, or household purpose;
- (c) either the debt is payable in installments or a loan finance charge is made; and
- (d) either:
 - (i) the principal does not exceed fifty thousand dollars (\$50,000); or
 - (ii) the debt is secured by an interest in land or by personal property used or expected to be used as the principal dwelling of the debtor.

SECTION 21. IC 24-4.5-3-107 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 107. Definitions: "Lender"; "Precomputed"; "Principal" – (1) Except as otherwise provided, "lender" **means a person regularly engaged in making consumer loans. The term** includes an assignee of the lender's right to payment but use of the term does not in itself impose on an assignee any obligation of the lender with respect to events occurring before the assignment.

(2) A loan, refinancing, or consolidation is "precomputed" if the debt is expressed as a sum comprising the principal and the amount of the loan finance charge computed in advance.

(3) "Principal" of a loan means the total of:

- (a) the net amount paid to, receivable by, or paid or payable for the account of the debtor;
- (b) the amount of any discount excluded from the loan finance charge (subsection (2) of 24-4.5-3-109); and
- (c) to the extent that payment is deferred:
 - (i) amounts actually paid or to be paid by the lender for

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1 registration, certificate of title, or license fees if not included
 2 in (a); and
 3 (ii) additional charges permitted by this Chapter
 4 (24-4.5-3-202).

5 SECTION 22. IC 24-4.5-3-201, AS AMENDED BY P.L.57-2006,
 6 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JANUARY 1, 2009]: Sec. 201. Loan Finance Charge for Consumer
 8 Loans other than Supervised Loans—(1) Except as provided in
 9 subsections (6) and (8), with respect to a consumer loan other than a
 10 supervised loan (IC 24-4.5-3-501), a lender may contract for a loan
 11 finance charge, calculated according to the actuarial method, not
 12 exceeding twenty-one percent (21%) per year on the unpaid balances
 13 of the principal.

14 (2) This section does not limit or restrict the manner of contracting
 15 for the loan finance charge, whether by way of add-on, discount, or
 16 otherwise, so long as the rate of the loan finance charge does not
 17 exceed that permitted by this section. If the loan is precomputed:

18 (a) the loan finance charge may be calculated on the assumption
 19 that all scheduled payments will be made when due; and

20 (b) the effect of prepayment is governed by the provisions on
 21 rebate upon prepayment (IC 24-4.5-3-210).

22 (3) For the purposes of this section, the term of a loan commences
 23 with the date the loan is made. Differences in the lengths of months are
 24 disregarded, and a day may be counted as one-thirtieth (1/30) of a
 25 month. Subject to classifications and differentiations the lender may
 26 reasonably establish, a part of a month in excess of fifteen (15) days
 27 may be treated as a full month if periods of fifteen (15) days or less are
 28 disregarded and if that procedure is not consistently used to obtain a
 29 greater yield than would otherwise be permitted. For purposes of
 30 computing average daily balances, the creditor may elect to treat all
 31 months as consisting of thirty (30) days.

32 (4) With respect to a consumer loan made pursuant to a revolving
 33 loan account:

34 (a) the loan finance charge shall be deemed not to exceed the
 35 maximum annual percentage rate if the loan finance charge
 36 contracted for and received does not exceed a charge in each
 37 monthly billing cycle which is one and three-fourths percent (1
 38 $\frac{3}{4}$ %) of an amount no greater than:

39 (i) the average daily balance of the debt;

40 (ii) the unpaid balance of the debt on the same day of the
 41 billing cycle; or

42 (iii) subject to subsection (5), the median amount within a

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- 1 specified range within which the average daily balance or the
 2 unpaid balance of the debt, on the same day of the billing
 3 cycle, is included; for the purposes of this subparagraph and
 4 subparagraph (ii), a variation of not more than four (4) days
 5 from month to month is "the same day of the billing cycle";
 6 (b) if the billing cycle is not monthly, the loan finance charge
 7 shall be deemed not to exceed the maximum annual percentage
 8 rate if the loan finance charge contracted for and received does
 9 not exceed a percentage which bears the same relation to
 10 one-twelfth (1/12) the maximum annual percentage rate as the
 11 number of days in the billing cycle bears to thirty (30); and
 12 (c) notwithstanding subsection (1), if there is an unpaid balance
 13 on the date as of which the loan finance charge is applied, the
 14 lender may contract for and receive a charge not exceeding fifty
 15 cents (\$0.50) if the billing cycle is monthly or longer, or the pro
 16 rata part of fifty cents (\$0.50) which bears the same relation to
 17 fifty cents (\$0.50) as the number of days in the billing cycle bears
 18 to thirty (30) if the billing cycle is shorter than monthly, but no
 19 charge may be made pursuant to this paragraph if the lender has
 20 made an annual charge for the same period as permitted by the
 21 provisions on additional charges (paragraph (c) of subsection (1)
 22 of IC 24-4.5-3-202).
- 23 (5) Subject to classifications and differentiations, the lender may
 24 reasonably establish and make the same loan finance charge on all
 25 amounts financed within a specified range. A loan finance charge does
 26 not violate subsection (1) if:
- 27 (a) when applied to the median amount within each range, it does
 28 not exceed the maximum permitted by subsection (1); and
 29 (b) when applied to the lowest amount within each range, it does
 30 not produce a rate of loan finance charge exceeding the rate
 31 calculated according to paragraph (a) by more than eight percent
 32 (8%) of the rate calculated according to paragraph (a).
- 33 (6) With respect to a consumer loan not made pursuant to a
 34 revolving loan account, the lender may contract for and receive a
 35 minimum loan finance charge of not more than thirty dollars (\$30). The
 36 minimum loan finance charge allowed under this subsection may be
 37 imposed only if:
- 38 (a) the **borrower debtor** prepays in full a consumer loan,
 39 refinancing, or consolidation, regardless of whether the loan,
 40 refinancing, or consolidation is precomputed;
 41 (b) the loan, refinancing, or consolidation prepaid by the **borrower**
 42 **debtor** is subject to a loan finance charge that:

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- 1 (i) is contracted for by the parties; and
 2 (ii) does not exceed the rate prescribed in subsection (1); and
 3 (c) the loan finance charge earned at the time of prepayment is
 4 less than the minimum loan finance charge contracted for under
 5 this subsection.
- 6 (7) The amount of thirty dollars (\$30) in subsection (6) is subject to
 7 change under the provisions on adjustment of dollar amounts
 8 (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the
 9 Reference Base Index to be used under this subsection is the Index for
 10 October 1992.
- 11 (8) In addition to the loan finance charge provided for in this
 12 section, a lender may contract for the following:
- 13 (a) With respect to a consumer loan that is not made under a
 14 revolving loan account, a loan origination fee of not more than
 15 two percent (2%) of the loan amount.
- 16 (b) With respect to a consumer loan that is made under a
 17 revolving loan account, a loan origination fee of not more than
 18 two percent (2%) of the line of credit that was contracted for.
- 19 (9) The charges provided for in subsection (8):
- 20 (a) are not subject to refund or rebate;
- 21 (b) are not permitted if a lender makes a settlement charge under
 22 IC 24-4.5-3-202(d)(ii); and
- 23 (c) are limited to two percent (2%) of the part of the loan that
 24 does not exceed two thousand dollars (\$2,000), if the loan is not
 25 primarily secured by an interest in land.
- 26 Notwithstanding subdivision (a), if a lender retains any part of a loan
 27 origination fee charged on a loan that is paid in full by a new loan from
 28 the same lender within three (3) months after the date of the prior loan,
 29 the lender may charge a loan origination fee only on that part of the
 30 new loan not used to pay the amount due on the prior loan, or in the
 31 case of a revolving loan, the lender may charge a loan origination fee
 32 only on the difference between the amount of the existing credit line
 33 and the increased credit line. This subsection does not prohibit a lender
 34 from contracting for and receiving a fee for preparing deeds,
 35 mortgages, reconveyance, and similar documents under
 36 IC 24-4.5-3-202(d)(ii), in addition to the charges provided for in
 37 subsection (8).
- 38 SECTION 23. IC 24-4.5-3-203.5 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 203.5.
 40 Delinquency Charges — (1) With respect to a consumer loan,
 41 refinancing, or consolidation, **other than a first lien mortgage**
 42 **transaction**, the parties may contract for a delinquency charge of not

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more than five dollars (\$5) on any installment or minimum payment due not paid in full within ten (10) days after its scheduled due date. **For a first lien mortgage transaction, the parties may contract for a delinquency charge of not more than five percent (5%) of the contracted payment amount.**

(2) A delinquency charge under this section may be collected only once on an installment however long it remains in default. With regard to a delinquency charge on consumer loans made under a revolving loan account, the delinquency charge may be applied each month that the payment is less than the minimum required payment on the account. A delinquency charge may be collected any time after it accrues. A delinquency charge may not be collected if the installment has been deferred and a deferral charge (IC 24-4.5-3-204) has been paid or incurred.

(3) **Except for a first lien mortgage transaction**, a delinquency charge may not be collected on an installment or payment due that is paid in full within ten (10) days after its scheduled due date even though an earlier maturing installment, minimum payment, or a delinquency charge on:

- (a) an earlier installment; or
- (b) payment due;

may not have been paid in full. For purposes of this subsection, payments are applied first to current installments or payments due and then to delinquent installments or payments due.

(4) If two (2) installments or parts of two (2) installments of a precomputed loan are in default for ten (10) days or more, the lender may elect to convert the loan from a precomputed loan to a loan in which the finance charge is based on unpaid balances. A lender that makes this election shall make a rebate under the provisions on rebates upon prepayment (IC 24-4.5-3-210) as of the maturity date of the first delinquent installment, and thereafter may make a loan finance charge as authorized by the provisions on loan finance charges for consumer loans (IC 24-4.5-3-201) or supervised loans (IC 24-4.5-3-508). The amount of the rebate shall not be reduced by the amount of any permitted minimum charge (IC 24-4.5-3-210). Any deferral charges made on installments due at or after the maturity date of the first delinquent installment shall be rebated, and no further deferral charges shall be made.

(5) The amount of five dollars (\$5) in subsection (1) is subject to change pursuant to the section on adjustment of dollar amounts (IC 24-4.5-1-106).

(6) If the parties provide by contract for a delinquency charge that

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1 is subject to change, the lender shall disclose in the contract that the
 2 amount of the delinquency charge is subject to change as allowed by
 3 IC 24-4.5-1-106.

4 SECTION 24. IC 24-4.5-3-209 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 209. Right to
 6 Prepay - (1) Subject to the provisions on rebate upon prepayment
 7 (IC 24-4.5-3-210), the debtor may prepay in full the unpaid balance of
 8 a consumer loan, refinancing, or consolidation at any time without
 9 penalty. With respect to a consumer loan that is primarily secured by
 10 an interest in land, a lender may contract for a penalty for prepayment
 11 of the loan in full, not to exceed two percent (2%) of any amount
 12 prepaid within sixty (60) days of the date of the prepayment in full,
 13 after deducting all refunds and rebates as of the date of the prepayment.
 14 However, the penalty may not be imposed:

- 15 (a) if the loan is refinanced or consolidated with the same
- 16 creditor;
- 17 (b) for prepayment by proceeds of any insurance or acceleration
- 18 after default; or
- 19 (c) after three (3) years from the contract date.

20 (2) At the time of prepayment of a consumer loan not subject to the
 21 provisions of rebate upon prepayment (IC 24-4.5-3-210), the total
 22 finance charge, including the prepaid finance charge but excluding the
 23 loan origination fee allowed under IC 24-4.5-3-201, may not exceed the
 24 maximum charge allowed under this chapter for the period the loan was
 25 in effect. For the purposes of determining compliance with this
 26 subsection, the total finance charge does not include the following:

- 27 (a) The loan origination fee allowed under IC 24-4.5-3-201.
- 28 (b) The ~~borrower~~ **debtor** paid mortgage broker fee, if any, paid to
- 29 a person who does not control, is not controlled by, or is not under
- 30 common control with, the creditor holding the loan at the time a
- 31 consumer loan is prepaid.

32 (3) The creditor or mortgage servicer shall provide an accurate
 33 payoff of the consumer loan to the debtor within ten (10) calendar days
 34 after the creditor or mortgage servicer receives the debtor's written
 35 request for the accurate consumer loan payoff amount. A creditor or
 36 mortgage servicer who fails to provide the accurate consumer loan
 37 payoff amount is liable for:

- 38 (a) one hundred dollars (\$100) if an accurate consumer loan
- 39 payoff amount is not provided by the creditor or mortgage
- 40 servicer within ten (10) calendar days after the creditor or
- 41 mortgage servicer receives the debtor's first written request; and
- 42 (b) the greater of:

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- (i) one hundred dollars (\$100); or
- (ii) the loan finance charge that accrues on the loan from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer loan payoff amount is provided;

if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with subdivision (a).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

SECTION 25. IC 24-4.5-3-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 301. ~~(1) For the purposes of this section, "consumer loan" includes a loan secured primarily by an interest in land which is a mortgage transaction if the loan is otherwise a consumer loan (IC 24-4.5-3-104).~~

~~(2)~~ (1) The lender shall disclose to the debtor to whom credit is extended with respect to a consumer loan the information required by the Federal Consumer Credit Protection Act.

~~(3)~~ (2) For purposes of subsection ~~(2)~~, (1), disclosures shall not be required on a consumer loan if the transaction is exempt from the Federal Consumer Credit Protection Act.

SECTION 26. IC 24-4.5-3-508, AS AMENDED BY P.L.57-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 508. Loan Finance Charge for Supervised Loans – (1) With respect to a supervised loan, including a loan pursuant to a revolving loan account, a supervised lender may contract for and receive a loan finance charge not exceeding that permitted by this section.

(2) The loan finance charge, calculated according to the actuarial method, may not exceed the equivalent of the greater of either of the following:

- (a) the total of:
 - (i) thirty-six percent (36%) per year on that part of the unpaid balances of the principal which is three hundred dollars (\$300) or less;
 - (ii) twenty-one percent (21%) per year on that part of the unpaid balances of the principal which is more than three hundred dollars (\$300) but does not exceed one thousand dollars (\$1,000); and
 - (iii) fifteen percent (15%) per year on that part of the unpaid

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- 1 balances of the principal which is more than one thousand
 2 dollars (\$1000); or
 3 (b) twenty-one percent (21%) per year on the unpaid balances of
 4 the principal.
 5 (3) This section does not limit or restrict the manner of contracting
 6 for the loan finance charge, whether by way of add-on, discount, or
 7 otherwise, so long as the rate of the loan finance charge does not
 8 exceed that permitted by this section. If the loan is precomputed:
 9 (a) the loan finance charge may be calculated on the assumption
 10 that all scheduled payments will be made when due; and
 11 (b) the effect of prepayment is governed by the provisions on
 12 rebate upon prepayment (IC 24-4.5-3-210).
 13 (4) The term of a loan for the purposes of this section commences
 14 on the date the loan is made. Differences in the lengths of months are
 15 disregarded, and a day may be counted as one-thirtieth (1/30) of a
 16 month. Subject to classifications and differentiations the lender may
 17 reasonably establish, a part of a month in excess of fifteen (15) days
 18 may be treated as a full month if periods of fifteen (15) days or less are
 19 disregarded and that procedure is not consistently used to obtain a
 20 greater yield than would otherwise be permitted.
 21 (5) Subject to classifications and differentiations, the lender may
 22 reasonably establish and make the same loan finance charge on all
 23 principal amounts within a specified range. A loan finance charge does
 24 not violate subsection (2) if:
 25 (a) when applied to the median amount within each range, it does
 26 not exceed the maximum permitted in subsection (2); and
 27 (b) when applied to the lowest amount within each range, it does
 28 not produce a rate of loan finance charge exceeding the rate
 29 calculated according to paragraph (a) by more than eight percent
 30 (8%) of the rate calculated according to paragraph (a).
 31 (6) The amounts of three hundred dollars (\$300) and one thousand
 32 dollars (\$1,000) in subsection (2) and thirty dollars (\$30) in subsection
 33 (7) are subject to change pursuant to the provisions on adjustment of
 34 dollar amounts (IC 24-4.5-1-106). For the adjustment of the amount of
 35 thirty dollars (\$30), the Reference Base Index to be used is the Index
 36 for October 1992.
 37 (7) With respect to a supervised loan not made pursuant to a
 38 revolving loan account, the lender may contract for and receive a
 39 minimum loan finance charge of not more than thirty dollars (\$30). The
 40 minimum loan finance charge allowed under this subsection may be
 41 imposed only if:
 42 (a) the ~~borrower~~ **debtor** prepays in full a consumer loan,

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refinancing, or consolidation, regardless of whether the loan, refinancing, or consolidation is precomputed;

(b) the loan, refinancing, or consolidation prepaid by the ~~borrower~~ **debtor** is subject to a loan finance charge that:

(i) is contracted for by the parties; and

(ii) does not exceed the rate prescribed in subsection (2); and

(c) the loan finance charge earned at the time of prepayment is less than the minimum loan finance charge contracted for under this subsection.

SECTION 27. IC 24-9-3-1.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.1. (a) As used in this section, "creditworthiness", with respect to a prospective borrower, means those factors likely to affect the prospective borrower's ability to repay a home loan at the home loan's trigger rate, including the following:**

(1) The prospective borrower's present and future:

(A) income, not including overtime payments, seasonal compensation, or other irregular income;

(B) expenses, including property taxes and insurance payments owed in connection with the home that is the subject of the home loan;

(C) assets; and

(D) liabilities.

(2) The prospective borrower's credit history.

(3) Any other factor likely to affect the prospective borrower's ability to repay the home loan at the home loan's trigger rate.

(b) For purposes of this section, a creditor conducts a "reasonable inquiry" into a prospective borrower's creditworthiness if the creditor:

(1) obtains a consumer report (as defined in IC 24-5-24-2) or other information maintained by a consumer reporting agency (as defined in IC 24-5-24-3) with respect to the prospective borrower; and

(2) obtains information about the prospective borrower through:

(A) a current or past employer of the prospective borrower;

(B) public records; or

(C) any other legal or commercially reasonable means.

(c) As used in this section, "stated income or no documentation loan" means a home loan with respect to which a creditor:

(1) relies solely on a prospective borrower's written or oral

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statement of the prospective borrower's creditworthiness; and
 (2) does not independently verify the accuracy of the
 prospective borrower's statement by conducting a reasonable
 inquiry into the prospective borrower's creditworthiness;
 in making an underwriting determination with respect to the
 prospective borrower.

(d) A creditor may not do either of the following:

(1) Recommend or issue a stated income or no documentation
 loan to a prospective borrower.

(2) Recommend or issue a home loan to a prospective
 borrower without first conducting a reasonable inquiry into
 the prospective borrower's creditworthiness. A creditor, or
 any officer, agent, or employee of a creditor, that conducts a
 reasonable inquiry under this section is not liable to:

(A) a borrower or prospective borrower;

(B) a subsequent purchaser of a home that was the subject
 of a home loan on which a borrower has defaulted; or

(C) any other person;

if a borrower later defaults on a home loan issued by the
 creditor.

SECTION 28. IC 24-9-3-4.5 IS ADDED TO THE INDIANA CODE
 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 1, 2008]: Sec. 4.5. (a) This section applies to a home loan that first
 becomes sixty (60) days past due after June 30, 2008.

(b) Subject to subsection (c), whenever a home loan becomes
 sixty (60) days past due, the creditor, or a loan servicer acting on
 the creditor's behalf, shall provide written notice of the
 delinquency to the borrower. The notice required under this
 section must offer the borrower:

(1) a temporary forbearance with respect to the home loan,
 subject to:

(A) terms agreed upon by the creditor and the borrower;
 and

(B) any applicable increase in the outstanding principal
 balance of the home loan, as allowed under IC 24-9-4-4(b);

(2) a payment plan; or

(3) any other option for the refinancing, restructuring, or
 workout of the existing indebtedness.

(c) Any option offered by the creditor under subsection (a) may
 not increase the interest rate on the home loan because of the
 delinquency. However, this subsection does not apply to interest
 rate changes in a variable rate home loan that are otherwise

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1 consistent with the provisions of the home loan documents, if the
2 change in the interest rate is not triggered by the delinquency.

3 SECTION 29. IC 24-9-4-8 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) A creditor may
5 not make a high cost home loan without regard to repayment ability.

6 (b) If a creditor presents evidence that the creditor:

7 (1) followed commercially reasonable practices in determining
8 the borrower's debt to income ratio; and

9 (2) conducted a reasonable inquiry into a prospective
10 borrower's creditworthiness under IC 24-9-3-1.1;

11 there is a rebuttable presumption that the creditor made the high cost
12 home loan with due regard to repayment ability. For purposes of this
13 section, there is a rebuttable presumption that the borrower's statement
14 of income provided to the creditor is true and complete.

15 (c) For purposes of subsection (b)(1), commercially reasonable
16 practices include the use of:

17 (1) the debt to income ratio:

18 (A) listed in 38 CFR 36.4337(c)(1); and

19 (B) defined in 38 CFR 36.4337(d); and

20 (2) the residual income guidelines established under:

21 (A) 38 CFR 36.4337(e); and

22 (B) United States Department of Veterans Affairs form
23 26-6393.

24 SECTION 30. IC 24-9-4.5 IS ADDED TO THE INDIANA CODE
25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2008]:

27 **Chapter 4.5. Residential Real Estate Closings**

28 **Sec. 1. This chapter applies to a home loan closing that takes**
29 **place after June 30, 2008.**

30 **Sec. 2. As used in this chapter, "closing documents" refers to the**
31 **documents that a settlement service provider is required to provide**
32 **to a borrower at or before the closing of a home loan, in**
33 **accordance with the requirements of the federal Real Estate**
34 **Settlement Procedures Act (12 U.S.C. 2601 et seq.) as amended.**

35 **Sec. 3. (a) As used in this chapter, "settlement service provider"**
36 **means a person that provides services in connection with the**
37 **closing of a real estate transaction, including the provision of title**
38 **examinations or title insurance.**

39 **(b) The term includes a closing agent (as defined in**
40 **IC 6-1.1-12-43(a)(2)).**

41 **Sec. 4. A creditor shall provide a prospective borrower with a**
42 **notice that states that the prospective borrower has a right to**

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1 receive, at least forty-eight (48) hours before the closing of a home
 2 loan, the closing documents with respect to the home loan. The
 3 creditor shall provide the notice required by this section at the
 4 same time that the creditor provides the good faith estimates
 5 required under the federal Real Estate Settlement Procedures Act
 6 (12 U.S.C. 2601 et seq.) as amended.

7 Sec. 5. (a) Subject to subsection (b), not later than forty-eight
 8 (48) hours before the closing of a home loan, a settlement service
 9 provider shall make available to the borrower the closing
 10 documents with respect to the home loan. The settlement service
 11 provider shall make the closing documents available to the
 12 borrower:

- 13 (1) at the office of the creditor or the settlement service
- 14 provider;
- 15 (2) through the United States mail;
- 16 (3) by facsimile; or
- 17 (4) through any other commercially reasonable means.

18 (b) A borrower may waive the right to receive the closing
 19 documents with respect to a home loan by providing a written
 20 notice of waiver to the settlement service provider at or before the
 21 time of closing.

22 (c) If the terms of the home loan set forth in the closing
 23 documents made available to the borrower under subsection (a)
 24 differ from the terms of the home loan presented to the borrower
 25 at the time of the closing, the borrower is entitled to delay or
 26 reschedule the closing without penalty and without forfeiting the
 27 right to enter into the loan or, in the case of a purchase money
 28 home loan, into the purchase contract. For purposes of the
 29 subsection, "terms", with respect to a home loan, include any of the
 30 following:

- 31 (1) The total loan amount.
- 32 (2) The loan's rate, including the trigger rate.
- 33 (3) Points and fees.
- 34 (4) Payment amounts and schedules.
- 35 (5) The term or duration of the loan.
- 36 (6) Prepayment penalties, if any.
- 37 (7) Acceleration provisions.
- 38 (8) Servicing of the loan.
- 39 (9) Other provisions concerning the rights and responsibilities
- 40 of the parties to the home loan.

41 Sec. 6. (a) A settlement service provider is subject to a civil
 42 penalty of twenty-five dollars (\$25) for each instance in which the

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1 settlement service provider fails to:

2 (1) provide a prospective borrower with the notice required
3 by section 4 of this chapter; or

4 (2) make closing documents available to a borrower as
5 required by section 5 of this chapter, unless the borrower has
6 waived the borrower's right to receive the closing documents
7 under section 5(b) of this chapter.

8 (b) A penalty described in subsection (a):

9 (1) may be enforced by the state agency that has
10 administrative jurisdiction over the settlement service
11 provider in the same manner that the agency enforces the
12 payment of fees or other penalties payable to the agency; and

13 (2) shall be paid into the property tax replacement fund.

14 (c) A settlement service provider is not liable for any other
15 damages claimed by a customer because of the closing agent's
16 failure to comply with this chapter.

17 SECTION 31. IC 34-30-2-16.6 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16.6. IC 6-1.1-12-43
19 (Concerning a closing agent's agent for failure to file, submit, or
20 provide a form a customer with certain forms concerning property
21 tax benefits, or for any determination made with respect to a
22 customer's eligibility for a benefit).

23 SECTION 32. IC 34-30-2-96.7 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2008]: Sec. 96.7. IC 24-9-3-1.1 (Concerning
26 a creditor's reasonable inquiry into a prospective borrower's
27 creditworthiness.)

28 SECTION 33. IC 34-30-2-96.8 IS ADDED TO THE INDIANA
29 CODE AS A NEW SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2008]: Sec. 96.8. IC 24-9-4.5-6 (Concerning
31 a settlement service provider's failure to provide closing
32 documents to a borrower).

33 SECTION 34. THE FOLLOWING ARE REPEALED [EFFECTIVE
34 JANUARY 1, 2009]: IC 24-4.5-3-105; IC 24-4.5-5-201.

35 SECTION 35. [EFFECTIVE UPON PASSAGE] (a) As used in this
36 SECTION, "task force" refers to the mortgage lending and fraud
37 prevention task force created under subsection (b).

38 (b) Not later than May 1, 2008, the following agencies shall
39 create the mortgage lending and fraud prevention task force by
40 each appointing an equal number of representatives to serve on the
41 task force:

42 (1) The securities division of the office of the secretary of state

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1 established under IC 23-19-6-1(a).

2 (2) The homeowner protection unit established by the
3 attorney general under IC 4-6-12-2.

4 (3) The department of financial institutions established by
5 IC 28-11-1-1.

6 (4) The department of insurance created by IC 27-1-1-1.

7 (5) The Indiana real estate commission created by
8 IC 25-34.1-2-1.

9 (6) The real estate appraiser licensure and certification board
10 created by 25-34.1-8-1.

11 (c) The members of the task force shall annually appoint a chair
12 from among the members of the task force. Each year, the
13 chairmanship shall rotate among the agencies set forth in
14 subsection (b).

15 (d) Subject to subsection (e), beginning not later than July 2008,
16 the task force shall meet each month to:

17 (1) coordinate the state's efforts to:

18 (A) regulate the various participants involved in
19 originating, issuing, and closing home loans;

20 (B) enforce state laws and rules concerning mortgage
21 lending practices and mortgage fraud; and

22 (C) prevent fraudulent practices in the home loan industry
23 and investigate and prosecute cases involving mortgage
24 fraud; and

25 (2) share information and resources necessary for the efficient
26 administration of the tasks set forth in subdivision (1).

27 (e) With respect to any meeting of the task force:

28 (1) one (1) or more members of the task force may participate
29 in the meeting; or

30 (2) the meeting may be conducted in its entirety;

31 by means of a conference telephone or similar communications
32 equipment by which all persons participating in the meeting can
33 communicate with each other. Participation by the means
34 described in this subsection constitutes presence in person at the
35 meeting.

36 (f) Beginning in 2008, not later than November 1 of each year,
37 the task force shall report to the legislative council on the activities
38 of the task force during the most recent state fiscal year. The
39 report required under this subsection must include:

40 (1) information on the regulatory activities of each agency
41 described in subsection (b), including a description of any:

42 (A) investigations conducted; or

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- 1 (B) disciplinary actions taken or criminal prosecutions
 2 pursued;
 3 with respect to the professions involved in originating, issuing,
 4 and closing home loans;
 5 (2) a description of any challenges:
 6 (A) encountered by the task force during the most recent
 7 state fiscal year; or
 8 (B) anticipated by the task force in the current state fiscal
 9 year;
 10 in carrying out the duties set forth in subsection (d);
 11 (3) any additional information required by the legislative
 12 council; and
 13 (4) any recommendations by the task force for legislation
 14 necessary to assist the task force in carrying out the duties set
 15 forth in subsection (d).
 16 A report to the legislative council under this subsection must be in
 17 an electronic format under IC 5-14-6.
 18 SECTION 36. [EFFECTIVE UPON PASSAGE] (a) As used in this
 19 SECTION, "commissioner" refers to the securities commissioner
 20 appointed under IC 23-19-6-1.
 21 (b) As used in this SECTION, "director" refers to the director
 22 of the department of financial institutions appointed under
 23 IC 28-11-2-1.
 24 (c) The commissioner and the director shall cooperate to
 25 determine the appropriate state agency or department to oversee
 26 the regulation of a person that is, has been, or may be subject to
 27 regulation, licensure, or registration under both:
 28 (1) IC 23-2-5; and
 29 (2) IC 24-4.5, as amended by this act.
 30 (d) The commissioner and the director shall issue joint
 31 guidelines to address the appropriate regulation of a person
 32 described in subsection (c) not later than September 1, 2008. The
 33 joint guidelines issued under this subsection must include any
 34 recommendations for legislation needed to implement the
 35 appropriate regulation of a person described in subsection (c), as
 36 determined by the commissioner and the director.
 37 (e) This SECTION expires January 1, 2010.
 38 SECTION 37. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1211, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BARDON, Chair

Committee Vote: yeas 8, nays 1.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1211 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-5.5-3, AS AMENDED BY P.L.219-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) For purposes of this section, "party" includes:

- (1) a seller of property that is exempt under the seller's ownership; or
- (2) a purchaser of property that is exempt under the purchaser's ownership;

from property taxes under IC 6-1.1-10.

(b) ~~Before~~ **Except as provided in section 3.5 of this chapter, in addition to** filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must do the following:

- (1) Complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.
- (2) Before filing a sales disclosure form with the county auditor, submit the sales disclosure form to the county assessor. The county assessor must review the accuracy and completeness of each sales disclosure form submitted immediately upon receipt of the form and, if the form is accurate and complete, stamp the form as eligible for filing with the county auditor and return the form to the appropriate party for filing with the county auditor. If

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multiple forms are filed in a short period, the county assessor shall process the forms as quickly as possible. For purposes of this subdivision, a sales disclosure form is considered to be accurate and complete if:

(A) the county assessor does not have substantial evidence when the form is reviewed under this subdivision that information in the form is inaccurate; and

(B) the form:

(i) substantially conforms to the sales disclosure form prescribed by the department of local government finance under section 5 of this chapter; and

(ii) is submitted to the county assessor in a format usable to the county assessor.

(3) File the sales disclosure form with the county auditor.

(c) Except as provided in subsection (d), the auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance and the legislative services agency in an electronic format specified jointly by the department of local government finance and the legislative services agency. The county assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(d) In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor. The township assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency in an electronic format specified jointly by the department of local government finance and the legislative services agency. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(e) If a sales disclosure form includes the telephone number or Social Security number of a party, the telephone number or Social Security number is confidential.

(f) County assessing officials and other local officials may not

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establish procedures or requirements concerning sales disclosure forms that substantially differ from the procedures and requirements of this chapter.

SECTION 2. IC 6-1.1-5.5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 3.5. (a) This section applies to a conveyance that:**

(1) is a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction; and

(2) is closed after December 31, 2009.

(b) Not later than September 1, 2009, the department of local government shall establish and maintain an electronic system for the collection and storage of the sales disclosure form data set forth in section 5(a) of this chapter with respect to a conveyance to which this section applies.

(c) The system established by the department under this section must include a form that:

(1) is uniformly accessible in an electronic format to the closing agent (as defined in IC 6-1.1-12-43(a)(2)) in the transaction; and

(2) allows the closing agent to:

(A) input the sales disclosure form data set forth in section 5(a) of this chapter with respect to the transaction; and

(B) submit the form electronically to a data base maintained by the department of local government finance.

(d) Subject to subsection (e), the department shall make the information stored in the data base described in subsection (c)(2)(B) accessible to:

(1) county auditors;

(2) county assessors;

(3) township assessors;

(4) the legislative services agency; and

(5) the department;

for the purposes authorized by section 3(c) and 3(d) of this chapter.

(e) If the sales disclosure form data submitted by a closing agent under subsection (c)(2)(B) includes the telephone number or the Social Security number of a party, the telephone number or the Social Security number is confidential."

Page 1, line 6, delete "following:" and insert "following".

Page 1, line 6, reset in roman "information:".

Page 2, delete lines 18 through 23.

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Page 2, line 24, reset in roman "(16)".

Page 2, line 24, delete "(18)".

Page 2, line 30, strike "IC 6-1.1-12-43(c)(1)." and insert "**IC 6-1.1-12-43(b)(1).**".

Page 2, between lines 30 and 31, begin a new paragraph and insert:
 "SECTION 4. IC 6-1.1-5.5-6, AS AMENDED BY P.L.154-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) **Subject to subsection (c)**, the county auditor may not **refuse to** accept a conveyance document ~~if~~ **solely because:**

(1) the sales disclosure form signed by all the parties and attested as required under section 9 of this chapter is not included with the document; ~~or~~

(2) the sales disclosure form does not contain the information described in section 5(a) of this chapter; **or**

(3) in the case of a conveyance to which section 3.5 of this chapter applies:

(A) the closing agent fails to submit an electronic form in accordance with section 3.5(c)(2)(B) of this chapter; or

(B) the electronic form submitted by the closing agent under section 3.5(c)(2)(B) of this chapter is incomplete or determined by any official or agency described in section 3.5(d) of this chapter to be inaccurate.

(b) Subject to subsection (c), the county recorder ~~shall not~~ **may not refuse to** record a conveyance document ~~without evidence that the parties have filed a completed sales disclosure form with the county auditor;~~ **solely on the basis of any of the reasons set forth in subsection (a).**

(c) Notwithstanding subsections (a) and (b), if any of the circumstances described in subsection (a)(1) through (a)(3) apply:

(1) a party to the conveyance who is required to file a sales disclosure form under section 3 of this chapter:

(A) is not relieved of the party's duty to file or correct the sales disclosure form required by this chapter; and

(B) is subject to the penalties set forth in section 12 of this chapter; and

(2) a closing agent who is required to submit an electronic sales disclosure form under section 3.5(c)(2)(B) of the chapter:

(A) is not relieved of the closing agent's duty to submit or correct the electronic sales disclosure form required by section 3.5(c)(2)(B) this chapter; and

(B) is subject to the penalties set forth in section 12(f) of

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this chapter.

SECTION 5. IC 6-1.1-5.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. **(a) Except as provided in subsection (b),** a person who signs a sales disclosure form shall attest in writing and under penalties of perjury that to the best of the person's knowledge and belief the information contained in the sales disclosure form is true and correct.

(b) An electronic sales disclosure form that is submitted in accordance with section 3.5(c)(2)(B) of this chapter is subject to any verification requirements that the department may prescribe by rule adopted under IC 4-22-2.

SECTION 6. IC 6-1.1-5.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) **Except as provided in subsection (f),** a party to a conveyance who:

- (1) is required to file a sales disclosure form under this chapter; and
- (2) fails to file a sales disclosure form at the time and in the manner required by this chapter;

is subject to a penalty in the amount determined under subsection (b).

(b) The amount of the penalty under subsection (a) is the greater of:

- (1) one hundred dollars (\$100); or
- (2) twenty-five thousandths percent (0.025%) of the sale price of the real property transferred under the conveyance document.

(c) Except as provided in subsection (f), the township assessor in a county containing a consolidated city, or the county assessor in any other county, shall:

- (1) determine the penalty imposed under this section;
- (2) assess the penalty to the party to a conveyance; and
- (3) notify the party to the conveyance that the penalty is payable not later than thirty (30) days after notice of the assessment.

(d) Except as provided in subsection (f), the county auditor shall:

- (1) collect the penalty imposed under this section;
- (2) deposit penalty collections as required under section 4 of this chapter; and
- (3) notify the county prosecuting attorney of delinquent payments.

(e) Except as provided in subsection (f), the county prosecuting attorney shall initiate an action to recover a delinquent penalty under this section. In a successful action against a person for a delinquent penalty, the court shall award the county prosecuting attorney reasonable attorney's fees.

(f) A closing agent who:

- (1) is required to submit an electronic sales disclosure form

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under section 3.5(c)(2)(B) of this chapter; and
 (2) fails to submit the electronic sales disclosure form at the
 time and in the manner prescribed by the department of local
 government finance;
 is subject to the penalty set forth in IC 6-1.1-12-43(h).".

Page 3, line 40, delete "The" and insert "Except as provided in
 subsection (d), the".

Page 4, line 4, delete "For use in transactions involving a first lien
 purchase money" and insert "As used in this subsection,
 "transaction" has the meaning set forth in section 43(a)(4) of this
 chapter. Not later than September 1, 2009, the department of local
 government finance shall establish and maintain an electronic
 system that automatically applies the deduction provided by
 section 1 of this chapter to a person entitled to the deduction
 provided by section 1 of this chapter. The system established by the
 department under this subsection must include a form that, with
 respect to a transaction that is closed after December 31, 2009:

- (1) is uniformly accessible in an electronic format to the
 closing agent (as defined in section 43(a)(2) of this chapter) in
 the transaction that is the basis for the person's eligibility for
 the deduction provided by section 1 of this chapter; and
- (2) allows the closing agent to:
 - (A) input the information concerning the transaction that
 is the basis for the person's eligibility for the deduction
 provided by section 1 of this chapter; and
 - (B) submit the form electronically to a data base
 maintained by the department of local government finance.

The department shall make the data base described in subdivision
 (2)(B) accessible to the county auditor in each county in Indiana.
 If the form submitted by a closing agent under subdivision (2)(B)
 is complete, the county auditor in the county in which the real
 property is located must accept the form and apply the deduction
 in accordance with section 17.8(c) of this chapter. The county
 auditor may not require the closing agent, the person entitled to
 the deduction, or any other person to provide any other
 information or form of identification for the person entitled to the
 deduction under section 1 of chapter to receive the deduction. If the
 form submitted by a closing agent under subdivision (2)(B)
 includes the telephone number or Social Security number of any
 individual, the telephone number or Social Security number is
 confidential."

Page 4, delete lines 5 through 15.



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Page 4, between lines 15 and 16, begin a new paragraph and insert:
 "SECTION 8. IC 6-1.1-12-42.5 IS ADDED TO THE INDIANA
 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2008]: **Sec. 42.5. (a) This section applies to a
 transaction that:**

(1) is a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction; and

(2) is closed after December 31, 2009.

**(b) Not later than September 1, 2009, the department of local
 government finance shall establish and maintain an electronic
 system for the collection and storage of the following information
 concerning any of the following persons that have participated in
 or assisted with a transaction to which this section applies, or that
 will participate in or assist with a transaction to which this section
 applies:**

**(1) The name and license number (under IC 23-2-5) of each
 loan brokerage business involved in the transaction.**

**(2) The name and registration number (under IC 23-2-5) of
 each originator involved in the transaction.**

(3) The name and license number (under IC 25-34.1) of each:

(A) principal broker; and

**(B) salesperson or broker-salesperson, if any;
 involved in the transaction.**

**(4) The name and certificate number (under IC 27-7-3) of
 each title insurance company involved in the transaction.**

**(5) The name and license number (under IC 27-1-15.6) of each
 title insurance agent involved in the transaction.**

(6) The name and:

**(A) license or certificate number (under IC 25-34.1-3-8) of
 each licensed or certified real estate appraiser; or**

**(B) license number (under IC 25-34.1) of each broker;
 who appraises the property that is the subject of the
 transaction.**

**(7) The name of the mortgagee and, if the mortgagee is
 required to be licensed under IC 24-4.5-3-502, the license
 number of the mortgagee.**

**(c) The system established by the department under this section
 must include a form that:**

**(1) is uniformly accessible in an electronic format to the
 closing agent (as defined in section 43(a)(2) of this chapter) in
 the transaction; and**

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(2) allows the closing agent to:

(A) input the information described in subsection (b) with respect to each person described in subsection (b) that participates in or assists with the transaction, to the extent determinable; and

(B) submit the form electronically to a data base maintained by the department of local government finance.

(d) Subject to subsection (e), the department shall make the information stored in the data base described in subsection (c)(2)(B) accessible to:

(1) each entity described in IC 4-6-12-4; and

(2) the homeowner protection unit established under IC 4-6-12-2.

(e) The department, a closing agent who submits under subsection (c), each entity described in IC 4-6-12-4, and the homeowner protection unit established under IC 4-6-12-2 shall exercise all necessary caution to avoid disclosure of any information:

(1) concerning a person described in subsection (b), including the person's license, registration, or certificate number; and

(2) contained in the data base described in subsection (c)(2)(B);

except to the extent required or authorized by state or federal law."

Page 5, line 20, delete "2008:" and insert "2008, and before January 1, 2010:".

Page 5, delete lines 21 through 24.

Page 5, line 25, delete "(2)" and insert "(1)".

Page 5, line 27, delete "the sales disclosure form prescribed by the" and insert "if the transaction is a first lien purchase money mortgage transaction, the sales disclosure form prescribed by the department under IC 6-1.1-5.5-5, the form prescribed by the department under IC 6-1.1-20.9-3 to allow a person to claim the credit provided by IC 6-1.1-20.9-2, and the form prescribed by the department under section 2(a) of this chapter to allow a person to claim the deduction provided by section 1 of this chapter; or

(ii) if the transaction is a refinancing transaction, the form prescribed by the department under section 2(a) of this chapter to allow a person to claim the deduction provided by section 1 of this chapter."

Page 5, delete lines 28 through 34.

Page 5, line 35, delete "subject to subsection (f),".

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Page 5, line 36, delete "form" and insert **"forms"**.
 Page 5, line 37, delete "subject to subsection (f),".
 Page 5, line 37, delete "form" and insert **"forms"**.
 Page 5, line 39, delete "(3)" and insert **"(2)"**.
 Page 5, line 39, delete "closing:" and insert **"closing,"**.
 Page 5, line 40, delete "(A)".
 Page 5, run in lines 39 through 40.
 Page 5, line 41, after "this" insert **"chapter by providing the customer with the form prescribed by the department under subsection (b)."**.
 Page 5, delete line 42.
 Page 6, delete lines 1 through 6.
 Page 6, line 8, delete "2008." and insert **"2008, and before January 1, 2010."**.
 Page 6, line 8, delete "a form" and insert **"the forms"**.
 Page 6, line 9, delete "(d)(2)(B)" and insert **"(d)(1)(B)"**.
 Page 6, line 11, delete "file the signed sales" and insert **"file:**
 (A) the signed sales disclosure form with the appropriate county assessor and county auditor in accordance with IC 6-1.1-5-3;
 (B) the signed mortgage deduction form in accordance with section 2(a) of the chapter; and
 (C) the signed homestead credit form in accordance with IC 6-1.1-20.9-3."
 Page 6, delete lines 12 through 13.
 Page 6, between lines 16 and 17, begin a new paragraph and insert:
"(f) This subsection applies to a transaction that is closed after December 31, 2009. The closing agent shall do the following:
 (1) At the time of the closing, inform the customer of the deductions available under sections 9, 11, 13, 14, 16, 17.4, 26, 29, 31, 33, and 34 of this chapter by providing the customer with the form prescribed by the department under subsection (b).
 (2) As soon as possible after the closing, and within the time prescribed by the department of local government finance:
 (A) for a transaction that is a first lien purchase money mortgage transaction:
 (i) input the electronic sales disclosure form data and submit the electronic sales disclosure form in accordance with IC 6-1.1-5.5-3.5(c)(2);
 (ii) input the information and submit the form described in IC 6-1.1-20.9-3(d)(2) to enable the customer to receive

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the credit provided by IC 6-1.1-20.9-2;
 (iii) input the information and submit the form described in section 2(d)(2) of this chapter to enable the customer to receive the deduction provided by section (1) of this chapter; and
 (iv) input the information and submit the form described in IC 6-1.1-12-42.5(c)(2); and

(B) for a refinancing transaction:

(i) input the information and submit the form described in section 2(d)(2) of this chapter to enable the customer to receive the deduction provided by section (1) of this chapter; and
 (ii) input the information and submit the form described in IC 6-1.1-12-42.5(c)(2), to the extent applicable."

Page 6, line 17, delete "(f)" and insert "(g)".

Page 6, line 20, delete "At the time of the closing, a customer may refuse to:".

Page 6, delete lines 21 through 27.

Page 6, line 28, delete "(g)" and insert "(h)".

Page 6, line 36, delete "(h)" and insert "(i)".

Page 6, line 39, delete "or".

Page 6, between lines 39 and 40, begin a new line block indented and insert:

"(2) with respect to a transaction that is closed after June 30, 2008, and before January 1, 2010, the closing agent's failure to file a document under subsection (e);

(3) with respect to a transaction that is closed after December 31, 2009, the closing agent's failure to input any information or submit any form described in subsection (f)(2); or".

Page 6, line 40, delete "(2)" and insert "(4)".

Page 6, line 42, delete "(i)" and insert "(j)".

Page 7, line 4, delete "(g)." and insert "(h).".

Page 8, line 6, delete "For use in transactions involving a conveyance (as defined in" and insert "As used in this subsection, "transaction" has the meaning set forth in section 43(a)(4)(A) of this chapter. Not later than September 1, 2009, the department of local government finance shall establish and maintain an electronic system that automatically applies the credit provided by section 2 of this chapter to a person entitled to the credit provided by section 2 of this chapter. The system established by the department under this subsection must include a form that, with respect to a transaction that is closed after December 31, 2009:

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(1) is uniformly accessible in an electronic format to the closing agent (as defined in section 43(a)(2) of this chapter) in the transaction that is the basis for the person's eligibility for the credit provided by section 2 of this chapter; and

(2) allows the closing agent to:

(A) input the information concerning the transaction that is the basis for the person's eligibility for the credit provided by section 2 of this chapter; and

(B) submit the form electronically to a data base maintained by the department of local government finance.

The department shall make the data base described in subdivision (2)(B) accessible to the county auditor in each county in Indiana. If the form submitted by a closing agent under subdivision (2)(B) is complete, the county auditor in the county in which the real property is located must accept the form and apply the credit in accordance with section 2(f) of this chapter. The county auditor may not require the closing agent, the person entitled to the credit, or any other person to provide any other information or form of identification for the person entitled to the credit under section 2 of chapter to receive the credit. If the form submitted by a closing agent under subdivision (2)(B) includes the telephone number or Social Security number of any individual, the telephone number or Social Security number is confidential."

Page 8, delete lines 7 through 42, begin a new paragraph and insert:
 "SECTION 11. IC 20-24-8-5, AS AMENDED BY P.L.2-2006, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The following statutes and rules and guidelines adopted under the following statutes apply to a charter school:

- (1) IC 5-11-1-9 (required audits by the state board of accounts).
- (2) IC 20-39-1-1 (unified accounting system).
- (3) IC 20-35 (special education).
- (4) IC 20-26-5-10 and IC 20-28-5-9 (criminal history).
- (5) IC 20-26-5-6 (subject to laws requiring regulation by state agencies).
- (6) IC 20-28-7-14 (void teacher contract when two (2) contracts are signed).
- (7) IC 20-28-10-12 (nondiscrimination for teacher marital status).
- (8) IC 20-28-10-14 (teacher freedom of association).
- (9) IC 20-28-10-17 (school counselor immunity).
- (10) For conversion charter schools only, IC 20-28-6, IC 20-28-7, IC 20-28-8, IC 20-28-9, and IC 20-28-10.



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- (11) IC 20-33-2 (compulsory school attendance).
- (12) IC 20-33-3 (limitations on employment of children).
- (13) IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student due process and judicial review).
- (14) IC 20-33-8-16 (firearms and deadly weapons).
- (15) IC 20-34-3 (health and safety measures).
- (16) IC 20-33-9 (reporting of student violations of law).
- (17) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative observances).
- (18) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, IC 20-32-8, or any other statute, rule, or guideline related to standardized testing (assessment programs, including remediation under the assessment programs).
- (19) IC 20-33-7 (parental access to education records).
- (20) IC 20-31 (accountability for school performance and improvement).
- (21) Beginning with the school year that begins in the calendar year beginning January 1, 2010, IC 20-30-5-19 (instruction concerning consumer transactions and personal financial responsibility).**

SECTION 12. IC 20-30-5-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 19. (a) Beginning with the school year that begins in the calendar year beginning January 1, 2010, each school corporation (including each charter school) and each nonpublic school that voluntarily has become accredited under IC 20-19-2-8 shall include in its curriculum for all students in grades 9 through 12 instruction designed to:**

- (1) increase students' awareness of certain consumer transactions, including mortgage transactions; and**
- (2) foster personal financial responsibility.**

(b) A school corporation (including a charter school) and a nonpublic school that voluntarily has become accredited under IC 20-19-2-8 may meet the requirements of subsection (a) by:

- (1) integrating the instruction described in subsection (a) in its required mathematics curriculum; or**
- (2) conducting a separate class or seminar that includes the instruction described in subsection (a).**

(c) A person may not receive a high school diploma from a school subject to this section unless the person has received the instruction required by this section.

(d) The department, in collaboration with the department of

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financial institutions established by IC 28-11-1-1, shall develop guidelines and the state board shall adopt rules under IC 4-22-2 to assist teachers assigned to provide the instruction required by this section."

Delete pages 9 through 10.

Page 12, delete lines 3 through 4.

Page 13, line 20, delete "." and insert **"upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes."**

Page 14, between lines 12 and 13, begin a new line block indented and insert:

"(23) "Dwelling" means a residential structure that contains one (1) to four (4) units, regardless of whether the structure is attached to real property. The term includes an individual:

(a) condominium unit;

(b) cooperative unit;

(c) mobile home; or

(d) trailer;

that is used as a residence."

Page 14, line 27, delete "an interest in land" and insert **"a mortgage transaction"**.

Page 14, line 28, strike "the principal" and insert **"a"**.

Page 16, line 19, delete "Except that not more than twenty-five percent (25%) of the".

Page 16, delete line 20.

Page 16, line 21, delete "transaction may be precomputed, this" and insert **"This"**.

Page 16, run in lines 19 through 21.

Page 18, line 2, delete "a purchase money".

Page 18, line 3, delete "mortgage transaction or the refinancing of".

Page 18, line 7, delete "a purchase money mortgage transaction or the refinancing of".

Page 18, line 19, reset in roman **"(3)"**.

Page 18, line 19, delete **"A"** and insert **"Except for a first lien mortgage transaction, a"**.

Page 18, line 19, reset in roman "delinquency charge may not be collected on an installment or".

Page 18, reset in roman lines 20 through 27.

Page 18, line 28, reset in roman **"(4)"**.

Page 18, line 28, delete **"(3)"**.

Page 18, line 42, reset in roman **"(5)"**.

Page 18, line 42, delete **"(4)"**.

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Page 19, line 3, delete "(5)".

Page 20, line 27, delete "Except that not more than twenty-five percent (25%) of the".

Page 20, delete line 28.

Page 20, line 29, delete "transaction may be precomputed, this" and insert "This".

Page 20, run in lines 27 through 29.

Page 23, line 15, delete "a purchase money".

Page 23, line 16, delete "mortgage transaction or the refinancing of".

Page 23, line 20, delete "a purchase money mortgage transaction or the refinancing of".

Page 23, line 33, reset in roman "(3)".

Page 23, line 33, delete "A" and insert **"Except for a first lien mortgage transaction, a"**.

Page 23, line 33, reset in roman "delinquency charge may not be collected on an installment or".

Page 23, reset in roman lines 34 through 41.

Page 23, line 42, reset in roman "(4)".

Page 23, line 42, delete "(3)".

Page 24, line 14, reset in roman "(5)".

Page 24, line 14, delete "(4)".

Page 24, line 17, reset in roman "(6)".

Page 24, line 17, delete "(5)".

Page 24, line 35, rest in roman "or".

Page 24, line 36, delete "date;" and insert "date.".

Page 24, delete lines 37 through 41.

Page 26, line 27, delete "Except that not more than twenty-five percent (25%) of the".

Page 26, delete line 28.

Page 26, line 29, delete "transaction may be precomputed, this" and insert "This".

Page 26, run in lines 27 through 29.

Page 27, delete lines 35 through 42.

Delete pages 28 through 30.

Page 31, delete lines 1 through 16.

Page 32, between lines 4 and 5, begin a new paragraph and insert:

"(c) As used in this section, "stated income or no documentation loan" means a home loan with respect to which a creditor:

(1) relies solely on a prospective borrower's written or oral statement of the prospective borrower's creditworthiness; and

(2) does not independently verify the accuracy of the prospective borrower's statement by conducting a reasonable

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inquiry into the prospective borrower's creditworthiness; in making an underwriting determination with respect to the prospective borrower.

(d) A creditor may not do either of the following:

(1) Recommend or issue a stated income or no documentation loan to a prospective borrower.

(2) Recommend or issue a home loan to a prospective borrower without first conducting a reasonable inquiry into the prospective borrower's creditworthiness. A creditor, or any officer, agent, or employee of a creditor, that conducts a reasonable inquiry under this section is not liable to:

(A) a borrower or prospective borrower;

(B) a subsequent purchaser of a home that was the subject of a home loan on which a borrower has defaulted; or

(C) any other person;

if a borrower later defaults on a home loan issued by the creditor."

Page 32, delete lines 5 through 18.

Delete page 33.

Page 34, delete lines 1 through 3.

Page 34, line 6, delete "ability, as" and insert "ability."

Page 34, delete line 7.

Page 34, line 32, delete "to:" and insert "to".

Page 34, line 33, delete "(1)".

Page 34, run in lines 32 through 33.

Page 34, line 37, delete "amended;" and insert "amended."

Page 34, delete lines 38 through 42.

Page 35, delete line 1.

Page 35, line 16, delete "Not" and insert "(a) Subject to subsection (b), not".

Page 35, between lines 25 and 26, begin a new paragraph and insert:

(b) A borrower may waive the right to receive the closing documents with respect to a home loan by providing a written notice of waiver to the settlement service provider at or before the time of closing.

(c) If the terms of the home loan set forth in the closing documents made available to the borrower under subsection (a) differ from the terms of the home loan presented to the borrower at the time of the closing, the borrower is entitled to delay or reschedule the closing without penalty and without forfeiting the right to enter into the loan or, in the case of a purchase money home loan, into the purchase contract. For purposes of the

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subsection, "terms", with respect to a home loan, include any of the following:

- (1) The total loan amount.
- (2) The loan's rate, including the trigger rate.
- (3) Points and fees.
- (4) Payment amounts and schedules.
- (5) The term or duration of the loan.
- (6) Prepayment penalties, if any.
- (7) Acceleration provisions.
- (8) Servicing of the loan.
- (9) Other provisions concerning the rights and responsibilities of the parties to the home loan.

Sec. 6. (a) A settlement service provider is subject to a civil penalty of twenty-five dollars (\$25) for each instance in which the settlement service provider fails to:

- (1) provide a prospective borrower with the notice required by section 4 of this chapter; or
- (2) make closing documents available to a borrower as required by section 5 of this chapter, unless the borrower has waived the borrower's right to receive the closing documents under section 5(b) of this chapter.

(b) A penalty described in subsection (a):

- (1) may be enforced by the state agency that has administrative jurisdiction over the settlement service provider in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and
- (2) shall be paid into the property tax replacement fund.

(c) A settlement service provider is not liable for any other damages claimed by a customer because of the closing agent's failure to comply with this chapter.

Sec. 7. "

Page 35, line 28, after "to" insert **"file, submit, or"**.

Page 35, line 35, delete "determination that a home loan is suitable for a" and insert **"reasonable inquiry into a prospective borrower's creditworthiness.)"**.

Page 35, delete line 36.

Page 35, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 33. IC 34-30-2-96.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 96.8. IC 24-9-4.5-6 (Concerning a settlement service provider's failure to provide closing documents to a borrower)."

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Page 37, delete lines 22 through 42.

Page 38, delete line 1 through 2.

Renumber all SECTIONS consecutively.

(Reference is to HB 1211 as printed January 25, 2008.)

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